

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL) MDL No. 2804
PRESCRIPTION OPIATE)
5 LITIGATION) Case No. 1:17-MD-2804
6)
7) Hon. Dan A. Polster
8 THIS DOCUMENT RELATES TO)
9 ALL CASES)
10)

11 Thursday, January 10, 2019
12

13 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
14 CONFIDENTIALITY REVIEW
15

16 Videotaped Deposition of GARY HILLIARD,
17 held at Winstead PC, 2728 N. Harwood St.,
18 Dallas, Texas, commencing at 9:06 a.m. on the
19 above date, before Susan Perry Miller,
20 Registered Diplomate Reporter, Certified
21 Realtime Reporter, Certified Realtime
22 Captioner, and Notary Public.

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1 (Thursday, January 10, 2019, 9:06 a.m.)

2 THE VIDEOGRAPHER: All right,
3 stand by. We are now on the record.
4 My name is Brian Bobbitt. I'm a
5 videographer for Golkow Litigation
6 Services. Today's date is
7 January 10th, 2019, and the time is
8 9:06 a.m.

9 This video deposition is being
10 held in Dallas, Texas, in the National
11 Prescription Opiate Litigation, MDL
12 No. 2804. The deponent is Gary
13 Hilliard.

14 Would counsel like to identify
15 themselves for the record.

16 MR. BOGLE: Brandon Bogle
17 representing the plaintiffs. He's my
18 paralegal.

19 MS. HELLER-TOIG: Elly
20 Heller-Toig from Marcus & Shapira for
21 HBC Service Company.

22 MR. PERRY: Stan Perry for
23 AmerisourceBergen.

24 MR. BRODSKY: Richard Brodsky
25 from Jones Day on behalf of Walmart.

1 MS. LUND: Juli Ann Lund from
2 Williams & Connolly on behalf of
3 Cardinal Health.

4 MR. KELLY: Kevin Kelly of
5 Covington & Burling on behalf of
6 McKesson.

7 MR. EPPICH: Chris Eppich of
8 Covington & Burling on behalf of
9 McKesson and the witness.

10 THE REPORTER: Thank you.
11 Would those on the phone announce,
12 please?

13 MR. LOMBARDO: Good morning.
14 John Lombardo with Arnold & Porter for
15 the Endo and Par defendants.

16 MS. LUCERO: Good morning.
17 Laura Lucero from Collinson Daehnke on
18 behalf of C&R Pharmacy.

19 MS. MUSKETT: Good morning.
20 Eileen Muskett from Fox Rothschild on
21 behalf of Validus.

22 THE REPORTER: Anyone else?

23 (No response.)

24 (Witness sworn by the
25 reporter.)

1 P R O C E E D I N G S

2 GARY HILLIARD,

3 having taken an oath to tell the truth, the
4 whole truth, and nothing but the truth,
5 testified as follows:

6 EXAMINATION

7 QUESTIONS BY MR. BOGLE:

8 Q. Good morning.

9 A. Good morning.

10 Q. Can I get your full name,
11 please?

12 A. Gary Lawrence Hilliard.

13 Q. And, Mr. Hilliard, my name is
14 Brandon Bogle. I'm going to be asking you
15 some questions today. Before we get into the
16 substance, though, have you ever had your
17 deposition taken before?

18 A. I have not.

19 Q. Okay. Just a few ground rules
20 to hopefully make things go as smoothly as
21 possible for us. I'm going to ask questions
22 and I'd ask that you wait till I finish my
23 question before you provide an answer, number
24 one, to make sure you understand my question;
25 number two, to allow the court reporter to

1 more easily transcribe things.

2 Does that make sense?

3 A. Yes, it does.

4 Q. Okay. And if at any point in
5 time you want to take a break, just let me or
6 your counsel know. I'm happy to do that.
7 It's not an endurance contest.

8 The other thing is if I ask a
9 question that you don't hear or don't
10 understand, please ask me to repeat it or
11 rephrase it and I will do so. Otherwise, I
12 assume if you're answering my question that
13 you understood it. Is that fair?

14 A. Yes.

15 Q. Okay. Where are you currently
16 employed, sir?

17 A. Tech Data Corporation.

18 Q. Where is that located?

19 A. The corporate office is in
20 Clearwater, Florida.

21 Q. Okay. Are you out of
22 Clearwater or somewhere else?

23 A. I'm out of a Fort Worth
24 facility.

25 Q. Give me just a general sketch

1 of what you do at Tech Data. What is your
2 job?

3 A. I'm a dangerous goods safety
4 advisor, so my role is to manage hazardous
5 materials for our company in the United
6 States, Canada and Mexico.

7 Q. Okay. Does Tech Data in any
8 way, shape or form sell, distribute or deal
9 in opioids?

10 A. No. It's all electronics.

11 Q. All electronics, okay.

12 When did you start working for
13 Tech Data?

14 A. In September 2016.

15 Q. Okay. And prior to working at
16 Tech Data, were you employed at McKesson?

17 A. I was.

18 Q. Okay. Can you give me the span
19 of time that you worked for McKesson?

20 A. From 1997 till 2016.

21 Q. Okay. And why did you leave
22 McKesson?

23 A. I was part of a workforce
24 reduction.

25 Q. Okay. Were you given the

1 opportunity to transfer to another department
2 or just outright told that they were
3 eliminating your position and there was no
4 other position for you?

5 A. Outright elimination.

6 Q. Okay. Now, the time from 1997
7 to 2016 while you were at McKesson, during
8 that entire span, were you a director of
9 regulatory affairs?

10 A. I started as a manager of
11 regulatory affairs.

12 Q. Okay. So tell me what time
13 period you were the manager.

14 A. It was approximately a year, so
15 approximately '97-98.

16 Q. Okay.

17 A. I don't remember the exact time
18 frame.

19 Q. That approximation is good
20 enough. So approximately 1998 you take over
21 as director of regulatory affairs. Do you
22 hold that position until 2016 when you leave?

23 A. That's correct.

24 Q. Okay. Do you know what month
25 in 2016 you left?

1 A. July, I believe.

2 Q. Okay. So give me a sense,
3 while you were at McKesson working at
4 director of regulatory affairs, what your
5 general job responsibilities were.

6 A. My role changed over the years,
7 but as I started, I had responsibility for
8 DEA compliance for our pharma distribution
9 centers within the U.S. I was over 30
10 facilities, I don't recall exactly, but...
11 so that entailed things such as the
12 management of the SOP, the audit, ARCOS, loss
13 and theft, any issue resolution; I would
14 assist with fiscal DEA audits, also with
15 corrective actions if there were any
16 corrective actions with that; the suspicious
17 order program that was in place at the time.

18 Q. Okay.

19 A. And then additionally I also
20 had responsibility for HAZMAT, hazardous
21 materials. I also had responsibility for EPA
22 environmental issues, waste disposal. I also
23 had responsibility for DEA registrations,
24 state licensure. I was also active with the
25 industry association with NWDA on working

1 committees for both federal and state.

2 Q. Is that the -- I'm sorry, go
3 ahead. Keep going.

4 A. And did some work on the OSHA
5 side as well for safety.

6 Q. Okay.

7 A. Also, I had responsibility for
8 FDA actions for -- as it related to our
9 operations.

10 Q. Okay. I've got a few follow-up
11 questions for you. Are you done? I want to
12 make sure you're done.

13 A. That's fine.

14 Q. Good. Okay. A few follow-up
15 questions for you on a couple of these points
16 you gave me. You said you were responsible
17 for the SOP. What SOP are you referring to?

18 A. Section 55 is what we referred
19 it to when we started. It was already in
20 place when I arrived at McKesson, and follow
21 up on that until a migration took place,
22 changes took place in the 2006 time frame.

23 Q. Okay. Because you guys went
24 from Section 55 to approximately 2007, you go
25 to the LDMP, the Lifestyle Drug Management

1 Program? True?

2 A. True.

3 Q. Okay. And then in
4 approximately 2008, you go to the Controlled
5 Substances Monitoring Program, otherwise
6 known as the CSMP. True?

7 A. True.

8 Q. Okay. So did you have
9 responsibility for -- let's do one by one.
10 So the Section 55 component, you had
11 responsibility for Section 55 in what
12 respect?

13 A. Updates and adherence for our
14 operations to the policy.

15 Q. For what period of time did you
16 have that responsibility?

17 A. From '97 till 2006.

18 Q. Okay. Let's talk about the
19 LDMP. Did you have any responsibility
20 related to the LDMP?

21 A. I helped create that LDMP
22 process.

23 Q. Okay. So after it was created,
24 what was your responsibility in relationship
25 to that program?

1 A. I worked with our team to
2 ensure compliance with that program and to
3 develop it.

4 Q. Okay. What about the CSMP?
5 What involvement did you have with the CSMP?

6 A. I also helped write that SOP as
7 well.

8 Q. What sort of experience did you
9 have with drafting SOPs prior to drafting the
10 LDMP, for example?

11 A. I had drafted SOPs in the past
12 with my previous employers as well, so no
13 formal training, if you will, for SOPs. But
14 just -- when something needed to be revised
15 or something wasn't in place and needed to be
16 created, then I would work on the SOPs for
17 that.

18 Q. Okay. Prior to drafting the
19 LDMP, had you had any experience drafting any
20 SOPs that related to suspicious order
21 monitoring for controlled substances?

22 A. Just the experience from what
23 we gained from the original Section 55, and
24 then the changes that were necessary as we
25 developed that program.

1 Q. Okay. And where did you work
2 before you came to McKesson?

3 A. FoxMeyer Drug Company.

4 Q. What did you do for them just
5 generally?

6 A. Same thing, manager of
7 regulatory affairs.

8 Q. How long were you with them?

9 A. Approximately two years.

10 Q. Immediately before McKesson?

11 A. Immediately before. McKesson
12 acquired FoxMeyer so it was part of the
13 acquisition.

14 Q. Gotcha.

15 Did you have any sort of
16 regulatory job prior to working at FoxMeyer?

17 A. I did. I worked regulatory for
18 a reverse distributor of pharmaceuticals.

19 Q. Can you say that again? I'm
20 sorry.

21 A. A reverse distributor.

22 Q. Reverse distributor.

23 A. RDS was the name, Reverse
24 Distribution Services.

25 Q. How long did you work for them?

1 A. Two years.

2 Q. Immediately preceding FoxMeyer?

3 A. Correct.

4 Q. Any other regulatory position
5 that you held prior to joining McKesson?

6 A. I worked in environmental, and
7 so I gained an environmental background
8 through waste management, Chemical Waste
9 Management to be more specific, so we were
10 trained in EPA requirements and Department of
11 Transportation, FAA requirements as well.

12 Q. What company are you referring
13 to there?

14 A. Chemical Waste Management.

15 Q. Chemical Waste Management.

16 Okay. Any others prior to
17 McKesson that are regulatory-related?

18 A. No.

19 Q. All right. So a couple of
20 other follow-ups. You mentioned, while at
21 McKesson, having responsibility related to
22 audit processes. In what respect were you
23 responsible for audit processes at McKesson?

24 A. I would update the audit as
25 necessary and then I'd go out to our

1 facilities and conduct audits.

2 Q. Okay. You're talking about a
3 specific SOP that you would update for
4 audits, or what are you referring to by
5 "update the audit"?

6 A. There was an audit that was
7 already written and it correlated to
8 Section 55, and I audited against that.

9 Q. Okay. How long did you have
10 responsibility for audits?

11 A. From '97 till approximately
12 2014.

13 Q. Okay. Just from prior
14 depositions, I understand that Tracy Jonas
15 also had some responsibility for audits. How
16 did your responsibility for audits compare to
17 his?

18 A. So when the audit was changed
19 to -- we referred to it as a STARS audit, and
20 so we co-wrote good portions of those audits,
21 and then he ultimately took over facilitation
22 of the audit program.

23 Q. Okay. And that would have been
24 in 2014, you're saying?

25 A. I'm not sure when -- the STARS

1 audit took place probably before 2014, but
2 I'm not exactly sure of the date.

3 Q. Okay. All right. You
4 mentioned responsibilities related to
5 suspicious order -- I think "purchasing" was
6 the term you used. Maybe you used a
7 different term, but something related to
8 suspicious order monitoring or purchasing.

9 A. Monitoring.

10 Q. What was your responsibility
11 there?

12 A. To -- adherence to our SOP.

13 Q. Okay. Going back to
14 Section 55, the LDMP and the CSMP?

15 A. Correct.

16 Q. During what time period did you
17 have those responsibilities?

18 A. 1997 until -- again, I'm not
19 sure when the STARS ended. It was handed off
20 to Dave Gustin. I don't know, 2013 -- 2014,
21 maybe.

22 Q. An approximation is fine.

23 A. I'm not sure.

24 Q. I'm not going to hold you to an
25 exact date. I just want to get a sense of

1 what the scope is here.

2 You also said you handled DEA
3 registrations and state licensure?

4 A. Correct.

5 Q. For what time period did you
6 have those responsibilities?

7 A. '97 till 2016.

8 Q. Okay. You mentioned being
9 actively involved in the -- I think it was
10 NWMA? Is that right?

11 A. HDMA.

12 Q. Right. I think you mentioned
13 the predecessor term.

14 A. NWDA, National Wholesale Drug
15 Association.

16 Q. Which then became the HDMA,
17 right?

18 A. And now is NDA, I believe, yes.

19 Q. I think maybe HDA.

20 A. HDA.

21 Q. I think so. It doesn't matter.

22 A. Okay.

23 Q. Okay. What sort of committees
24 were you on at NWDA?

25 A. I was on the federal committees

1 in reference to DEA, also state committee,
2 pharmaceutical waste management committee,
3 transportation committee.

4 Q. Okay. Let's talk about the
5 federal DEA committee. What did you do --
6 what was your involvement with that
7 committee? What did you do?

8 A. We would meet typically
9 annually and with our counterparts from other
10 wholesalers and sometimes manufacturers, and
11 we would discuss issues that were happening,
12 proposed regulations that were coming up.
13 That's primarily it.

14 Q. Okay. And so this NWDA was a
15 trade association for pharmaceutical
16 distributors primarily, correct?

17 A. That's correct.

18 Q. Okay. And so as part of that
19 association, as a member of that association,
20 you would have interactions with other
21 employees of other pharmaceutical
22 distributors. Is that fair?

23 A. That's correct.

24 MR. EPPICH: Object to the
25 form.

1 Give me a minute to object, if
2 you don't mind.

3 QUESTIONS BY MR. BOGLE:

4 Q. How frequently would you attend
5 meetings for NWDA, approximately?

6 A. Approximately twice a year.

7 Q. Okay. Would those meetings
8 generally be attended by employees of other
9 pharmaceutical distributors as well?

10 A. That's correct.

11 Q. Okay. You also mentioned
12 having responsibility for ARCOS. Can you
13 tell me what you did related to ARCOS?

14 A. I would train our employees at
15 our facilities when they needed training. I
16 would assist in problems that they may have
17 understanding what types of code assignments
18 would be associated with a type of
19 transaction. If they had error reports that
20 they needed assistance with, and any
21 communications from ARCOS corporate, then I
22 would typically work with them on that.

23 Q. Okay. And when it came to the
24 ARCOS training you're referring to, are you
25 talking about training people at the

1 distribution centers?

2 A. That's correct.

3 Q. All right. So from 1997 to
4 2007, would you have had responsibility for
5 regulatory compliance for all of McKesson's
6 distribution centers?

7 A. For the pharmaceutical
8 division.

9 Q. Okay. Well, let me rephrase it
10 because I think that's a fair clarification.

11 So from 1997 to 2007, would you
12 have had responsibility for compliance with
13 the Controlled Substances Act as it pertained
14 to all of McKesson's distribution centers?

15 A. That would be correct.

16 Q. Okay. And, now, in 2008, as I
17 understand it, there were some additional
18 people added to McKesson's regulatory team.
19 Is that true?

20 A. That's correct.

21 Q. Okay. And so when that change
22 occurred and additional people were added, as
23 I understand it, you would then have not been
24 responsible for all of those distribution
25 centers when it pertains to Controlled

1 Substance Act compliance. True?

2 MR. EPPICH: Object to the
3 form.

4 A. There were regional directors
5 and I did not have a region. So the regional
6 directors specifically worked with the new
7 programs that were being developed, whereas I
8 worked on other operational aspects.

9 QUESTIONS BY MR. BOGLE:

10 Q. Okay. From the information
11 that I've looked at from the time period of
12 1997 to 2007, when it came to Controlled
13 Substances Act compliance at McKesson, you
14 guys had a three-person team which consisted
15 of Donald Walker, yourself, and Bruce
16 Russell. Is that true?

17 A. When I started, there was -- I
18 reported to Dan White, who was a VP of
19 regulatory, and I reported to -- I'm sorry,
20 not reported. I also had a colleague that
21 was a director of regulatory affairs, Rolly
22 Blythe.

23 Q. Okay. When did Mr. White leave
24 the company, roughly?

25 A. He transitioned to a different

1 role, and I do not recall the date.

2 Q. The other name was Rolly White,
3 I believe you gave me?

4 A. Blythe.

5 Q. Oh, Blythe, I'm sorry. When
6 did that individual cease working in
7 regulatory affairs, roughly?

8 A. He retired, and again, I don't
9 recall the exact time frame, but it was
10 probably a few years, three, four years, in.

11 Q. To your tenure?

12 A. Correct.

13 Q. What did Rolly Blythe, what did
14 that person generally do during that time
15 period that they were there?

16 A. The same role, so he was my
17 predecessor, and he managed the DEA
18 compliance.

19 Q. Okay. And Mr. White, what was
20 his role?

21 A. He oversaw the regulatory
22 department, which included DEA compliance.

23 Q. So would he have been --
24 Mr. White been in that role during the same
25 time that Donald Walker was working in

1 regulatory affairs?

2 A. No.

3 Q. No. So did Mr. Walker sort of
4 take his role over?

5 A. Mr. Walker took over SVP of
6 operations, and then I started reporting up
7 through him.

8 Q. Okay.

9 A. Again, I don't remember the
10 exact time frame.

11 Q. That's fine.

12 Do you agree that there is an
13 ongoing opioid epidemic in this country?

14 A. I don't know about opioid
15 epi- -- sorry, epidemic, in those term- -- in
16 that terminology.

17 Q. Okay. Do you believe there's
18 any sort of problem in this country as it
19 relates to opioids?

20 MR. EPPICH: Object to the
21 form.

22 MR. PERRY: Object to form.

23 A. I don't know.

24 QUESTIONS BY MR. BOGLE:

25 Q. You don't know, okay.

1 Did you ever receive any
2 training, formal or informal, about a
3 potential epidemic in this country while at
4 McKesson?

5 MR. EPPICH: Object to the
6 form.

7 QUESTIONS BY MR. BOGLE:

8 Q. Related to opioids?

9 MR. EPPICH: Object to the
10 form.

11 A. I don't know.

12 QUESTIONS BY MR. BOGLE:

13 Q. Did you ever have any
14 discussions with any of your colleagues at
15 McKesson about a potential opioid epidemic in
16 this country?

17 A. Not that I recall in that
18 frame -- of that terminology.

19 Q. Okay. Any other sort of
20 terminology that you would utilize that you
21 did have such a discussion?

22 MR. EPPICH: Object to the
23 form.

A vertical list of 20 horizontal bars of varying lengths and positions, representing a stylized barcode or data visualization. The bars are gray and set against a white background. The lengths and vertical positions of the bars vary, creating a rhythmic, abstract pattern. Some bars span the full width of the image, while others are shorter and positioned at different heights. The overall effect is that of a modern, minimalist barcode or a data visualization where the length of each bar represents a specific value.

22 MR. EPPICH: Object to the
23 form.

24 QUESTIONS BY MR. BOGLE:

25 Q. Okay. Are you familiar with

1 the term "diversion"?

2 A. I am.

3 Q. What do you understand that
4 term to mean?

5 MR. EPPICH: Object to the
6 form. Calls for a legal conclusion.

7 A. Controlled substance
8 pharmaceuticals being utilized outside the
9 course of legal requirements under the CSA.

10 QUESTIONS BY MR. BOGLE:

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED]

17 QUESTIONS BY MR. BOGLE:

18 Q. All right. I'm going to hand
19 you what I'm marking as Exhibit 1.1651, which
20 is also Exhibit 1 to your deposition, and
21 that's MCKMDL00498169.

22 (McKesson-Hilliard Exhibit 1
23 was marked for identification.)

24 QUESTIONS BY MR. BOGLE:

25 Q. There you go, sir.

1 Okay, Mr. Hilliard. What I've
2 handed you as Exhibit 1 you see is an e-mail
3 on the first page and then sort of a
4 PowerPoint slide deck behind it.

5 Do you see that?

6 A. I see that.

7 Q. Okay. And starting with the
8 e-mail on the first page, you see that's an
9 e-mail from Donald Walker dated May 2, 2012,
10 to several individuals, including yourself,
11 right?

12 A. I see that.

[REDACTED]

[illegible]

[illegible]

[illegible]

| Group | U.S. should take action | U.S. should not take action |
|--------------|-------------------------|-----------------------------|
| Total | 85% | 15% |
| U.S.-born | 85% | 15% |
| Foreign-born | 85% | 15% |

20 I'm going to hand you what I'm
21 marking as Exhibit 2 to your deposition,
22 which is Exhibit 1.264. This is a public
23 document so no Bates numbers.

24 (McKesson-Hilliard Exhibit 2
25 was marked for identification.)

1 QUESTIONS BY MR. BOGLE:

2 Q. Okay. You see here this is a
3 document from the U.S. House of
4 Representatives Committee on Energy and
5 Commerce from May 4, 2018.

6 Do you see that?

7 A. I see that.

8 Q. Okay. And it's -- the
9 regarding line says: Hearing entitled
10 "Combatting the Opioid Epidemic: Examining
11 Concerns About Distribution and Diversion."

12 Do you see that there?

13 A. I do see that.

14 Q. Okay. Have you followed the
15 outcomes of any of these congressional
16 hearings on the opioid epidemic?

17 A. I have not.

18 Q. You said you were aware of
19 them, right?

20 A. I am aware of them but I have
21 not followed them. I've been out of
22 pharmaceuticals for a while now.

23 Q. If you look at the second page
24 of this document, underneath the chart it
25 says: The U.S. continues to experience an

1 opioid epidemic, which has worsened over the
2 last two decades. Opioid-involved overdose
3 deaths are the leading cause of injury death
4 in the U.S. and take the lives of 115
5 Americans per day.

6 Is that a statistic you've seen
7 before?

8 MR. EPPICH: Objection,
9 foundation.

10 A. It is not.

11 QUESTIONS BY MR. BOGLE:

12 Q. "According to a recent report
13 issued by the Centers for Disease Control and
14 Prevention (CDC), prescription or illicit
15 opioids were involved in nearly two-thirds of
16 all drug overdose deaths in the U.S. during
17 2016 - a 27.7 percent increase from 2015. In
18 total, more than 351,000 people have died
19 since 1999 due to an opioid-involved
20 overdose."

21 And then it says: The crisis
22 has become so severe that the average life
23 expectancy declined in 2016 from the previous
24 year, largely because of opioid overdoses.

25 Do you see that?

1 MR. EPPICH: Objection,
2 foundation.

3 A. I see it on the page.

4 QUESTIONS BY MR. BOGLE:

5 Q. Okay. And the information I
6 read to you, those last three sentences
7 there, any of that information you were aware
8 of prior to today?

9 A. I was not.

10 Q. And so from our discussion at
11 the beginning of the deposition, you worked
12 at McKesson for, what, just shy of 20 years,
13 right?

14 A. Correct.

15 Q. Okay. And so during that time
16 period, did you have the belief that
17 protecting the health and safety of the
18 public should be the most important
19 consideration for a pharmaceutical
20 distributor like McKesson?

21 MR. EPPICH: Object to the
22 form.

23 A. I don't know.

24 QUESTIONS BY MR. BOGLE:

25 Q. Okay. Did you ever consider

1 what sort of considerations should be most
2 important for your job as you performed it?

3 MR. EPPICH: Object to the
4 form.

5 A. We complied with the CSA
6 requirements.

7 QUESTIONS BY MR. BOGLE:

8 Q. Okay. Did you ever consider
9 why those requirements existed?

10 MR. EPPICH: Object to the
11 form.

12 QUESTIONS BY MR. BOGLE:

13 Q. What their purpose was?

14 MR. EPPICH: Object to the
15 form.

16 A. Protection of the supply chain
17 under controlled substances.

18 QUESTIONS BY MR. BOGLE:

19 Q. When you mean -- when you say
20 "protection of the supply chain," what do you
21 mean by that?

22 A. Controlled substances stay in
23 legitimate markets.

24 Q. And why would it be important
25 for controlled substances to stay in

1 legitimate markets --

2 MR. EPPICH: Object to the

3 form.

4 QUESTIONS BY MR. BOGLE:

5 Q. -- from your understanding?

6 MR. EPPICH: Object to the

7 form. Foundation.

8 A. It's a requirement of the CSA.

9 QUESTIONS BY MR. BOGLE:

10 Q. Okay. Anything beyond that?

11 MR. EPPICH: Same objections.

12 A. I don't know.

13 QUESTIONS BY MR. BOGLE:

14 Q. Okay. While you were with
15 McKesson, the company was a distributor of
16 controlled substances, right?

17 A. That's correct.

18 Q. Okay. And those controlled
19 substances included opioid products, right?

20 A. That's correct.

21 Q. Okay. And opioid products are
22 generally in the class of drugs known as
23 narcotics, right?

24 MR. EPPICH: Object to the
25 form; foundation.

1 A. Some of them can be.

2 QUESTIONS BY MR. BOGLE:

3 Q. Okay. Are you aware of any
4 opioids that are nonnarcotic?

5 MR. EPPICH: Same objections.

6 A. Not that I recall.

7 QUESTIONS BY MR. BOGLE:

8 Q. We talked about this a little
9 bit at the beginning of the deposition, but
10 in your role as manager and then director of
11 regulatory affairs, you would have had
12 responsibility for having understanding of
13 the Controlled Substances Act, right?

14 A. Correct.

15 Q. And the Controlled Substances
16 Act itself, you understand, is designed to
17 prevent the diversion of controlled
18 substances like opioids, right?

19 MR. EPPICH: Object to the
20 form. Calls for a legal conclusion.

21 A. I don't know.

22 QUESTIONS BY MR. BOGLE:

23 Q. Okay. Do you have any sense as
24 to what the purpose of the Controlled
25 Substances Act was while you worked at

1 McKesson?

2 A. To prevent diversion.

3 Q. Okay. And under the Controlled
4 Substances Act while you were with McKesson,
5 one of McKesson's responsibilities was to
6 have effective controls against diversion,
7 right?

8 A. That's correct.

9 MR. EPPICH: Object to the
10 form. Calls for a legal conclusion.

11 QUESTIONS BY MR. BOGLE:

12 Q. Another responsibility under
13 the Controlled Substances Act while you were
14 with McKesson would be to monitor for
15 suspicious controlled substances orders,
16 right?

17 MR. EPPICH: Object to the
18 form. Calls for a legal conclusion.

19 A. We followed the processes and
20 procedures that we had in place that were to
21 comply with the CSA requirements.

22 QUESTIONS BY MR. BOGLE:

23 Q. Okay. But did you have an
24 understanding while you were at McKesson that
25 the company had a responsibility to monitor

1 for suspicious orders --

2 MR. EPPICH: Same objections.

3 QUESTIONS BY MR. BOGLE:

4 Q. -- for controlled substances?

5 A. We did monitor for controlled
6 substance orders.

7 Q. Okay. Did you know where that
8 responsibility came from?

9 A. CSA requirements.

10 Q. Okay. And while you were at
11 McKesson, did you also understand that there
12 was a responsibility to report suspicious
13 orders when they were detected to the DEA?

14 MR. EPPICH: Object to the
15 form. Calls for a legal conclusion.

16 A. The process was to report
17 controlled substances orders according to the
18 SOP.

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. And the SOP required
21 that if suspicious orders were detected, they
22 were to be reported to the DEA, correct?

23 MR. EPPICH: Object to the
24 form.

25 A. They were reported to the DEA.

1 QUESTIONS BY MR. BOGLE:

2 Q. Okay. When you say "they,"
3 we're talking about suspicious orders, right,
4 for controlled substances?

5 A. That's correct.

6 Q. Okay. And did you also
7 understand while you were at McKesson that
8 the company was to block any orders that it
9 deemed suspicious?

10 MR. EPPICH: Object to the
11 form.

12 A. That was not a requirement of
13 the CSA.

14 QUESTIONS BY MR. BOGLE:

15 Q. Okay. At any point in time
16 while you were at the company?

17 MR. EPPICH: Object to the
18 form. Calls for a legal conclusion.

19 A. We made changes, developed
20 changes to our processes, and -- with the
21 CSMP program, and so with the CSMP program
22 that program did block.

23 QUESTIONS BY MR. BOGLE:

24 Q. Okay. Do you have an
25 understanding as to why the CSMP blocked

1 suspicious orders?

2 MR. EPPICH: Object to the

3 form.

4 QUESTIONS BY MR. BOGLE:

5 Q. Why that was a component of it?

6 MR. EPPICH: Object to the

7 form.

8 A. A guidance document provided by

9 Rannazzisi.

10 QUESTIONS BY MR. BOGLE:

11 Q. And do you recall when you

12 first saw that guidance document?

13 MR. EPPICH: Object to the

14 form.

15 A. Approximately 2006.

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. And so prior to

18 receiving that document in approximately

19 2006, it was your personal belief that there

20 was no responsibility for McKesson to block

21 suspicious orders. Is that true?

22 MR. EPPICH: Object to the

23 form. Calls for a legal conclusion.

24 A. It was not a requirement of the

25 CSA.

1 QUESTIONS BY MR. BOGLE:

2 Q. Okay. And so if I'm
3 understanding your testimony correctly, prior
4 to the implementation of the CSMP in 2008, it
5 was not McKesson's policy to block suspicious
6 orders. Is that true?

7 MR. EPPICH: Object to the
8 form.

9 A. Blocking of the orders was not
10 a requirement under the CSA.

11 QUESTIONS BY MR. BOGLE:

12 Q. Yeah. I'm just asking whether
13 it was a company policy to block suspicious
14 orders prior to 2008. I'm not asking about
15 the CSA right now.

16 MR. EPPICH: Object to the
17 form.

18 A. We complied with requirements
19 under the CSA.

20 QUESTIONS BY MR. BOGLE:

21 Q. Yeah. I'm just asking whether
22 prior to 2008 when the CSMP was implemented,
23 was it McKesson's policy to not block
24 suspicious orders when they were detected?

25 MR. EPPICH: Object to the

1 form.

2 A. We complied with the CSA
3 requirements.

4 QUESTIONS BY MR. BOGLE:

5 Q. Okay. I guess I don't
6 understand how that applies to my question.
7 I'm just asking if you guys blocked
8 suspicious orders prior to 2008.

9 MR. EPPICH: Object to the
10 form.

11 A. Blocking was not a requirement.

12 QUESTIONS BY MR. BOGLE:

13 Q. So the answer is no, that that
14 wasn't done --

15 MR. EPPICH: Object to the
16 form.

17 QUESTIONS BY MR. BOGLE:

18 Q. -- prior to 2008?

19 A. We complied with the CSA
20 requirements.

21 Q. Okay. I got that that's your
22 answer, but I'm trying to just get a specific
23 answer to a specific question, which is to
24 nail down in time when McKesson, to your
25 understanding, started blocking suspicious

1 orders for controlled substances. Can you
2 tell me when that started occurring?

3 A. The CSMP, which was about 2008.

4 Q. Okay. I'm going to hand you
5 what I'm marking as Exhibit 3, which is
6 1.1464, and that's MCKMDL00478906.

7 (McKesson-Hilliard Exhibit 3
8 was marked for identification.)

9 QUESTIONS BY MR. BOGLE:

10 Q. And you see this is a letter
11 from the U.S. Department of Justice Drug
12 Enforcement Administration dated
13 September 27, 2006.

14 Do you see that?

15 A. I see that.

16 Q. Is this the guidance document
17 from Mr. Rannazzisi that you were referring
18 to a minute ago?

19 A. Yes, it is.

20 Q. Okay. So you've seen this
21 document before. True?

22 A. Yes.

23 Q. Okay. I want to look at a
24 couple of components of this letter. It
25 says, in the first line: This letter is

1 being sent to every commercial entity in the
2 United States registered with the Drug
3 Enforcement Administration (DEA) to
4 distribute controlled substances. The
5 purpose of this letter is to reiterate the
6 responsibilities of controlled substance
7 distributors in view of the prescription drug
8 abuse problem our nation currently faces.

9 Do you see that?

10 A. I see that.

11 Q. The term "reiterate" is used
12 there in that sentence. What do you
13 understand the term "reiterate" to mean?

14 MR. EPPICH: Object to the
15 form. Foundation.

16 A. This is written by
17 Mr. Rannazzisi. I don't know what he's
18 referring to, reiterate.

19 QUESTIONS BY MR. BOGLE:

20 Q. I'm just asking if you
21 understand what the term "reiterate" means.

22 MR. EPPICH: Asked and
23 answered.

24 A. I don't know.

25 --oOo--

1 QUESTIONS BY MR. BOGLE:

2 Q. You don't know what the term
3 "reiterate" means in general use?

4 MR. EPPICH: Object to the
5 form. Foundation.

6 A. I don't know.

7 QUESTIONS BY MR. BOGLE:

8 Q. Okay. Going down to the third
9 paragraph in this letter, I'm looking at the
10 sentence that starts with "Distributors are,
11 of course."

12 Do you see that in the middle
13 of the paragraph?

14 A. Third paragraph? Yes, I see
15 that now.

16 Q. All right. It says:
17 Distributors are, of course, one of the key
18 components of the distribution chain. If the
19 closed system is to function properly as
20 Congress envisioned, distributors must be
21 vigilant in deciding whether a prospective
22 customer can be trusted to deliver controlled
23 substances only for lawful purposes.

24 Do you see that?

25 A. Yes, I see that.

1 Q. Okay. Do you agree with that
2 sentence?

3 MR. EPPICH: Object to the
4 form. Foundation.

5 A. I don't know.

6 QUESTIONS BY MR. BOGLE:

7 Q. You don't have an opinion one
8 way or the other whether that's an accurate
9 statement?

10 A. No, I don't.

11 Q. Okay. Do you have any opinion
12 as to whether McKesson should have at all
13 times been vigilant in deciding which
14 customers got controlled substances from
15 them?

16 MR. EPPICH: Object to the
17 form.

18 A. I don't know.

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. And it says -- it goes
21 on: This responsibility is critical, as
22 Congress has expressly declared that the
23 illegal distribution of controlled substances
24 has a substantial and detrimental effect on
25 the health and general welfare of the

1 American people.

2 Do you see that?

3 A. Yes, I see that.

4 Q. Okay. Do you agree that
5 illegal distribution of controlled substances
6 has a substantial and detrimental effect on
7 the health and general welfare of the
8 American people?

9 MR. EPPICH: Object to the
10 form. Foundation.

11 A. I don't know.

12 QUESTIONS BY MR. BOGLE:

13 Q. Okay. Is that something you
14 ever considered while you were at McKesson,
15 that concept?

16 MR. EPPICH: Object to the
17 form.

18 A. I don't recall.

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. Going to the second page
21 here of the letter, the third paragraph that
22 starts with "The statutory factors."

23 Do you see that?

24 A. Yes, I see that.

25 Q. It says there: The statutory

1 factors DEA must consider in deciding whether
2 to revoke a distributor's registration are
3 set forth in 21 U.S.C. 823(e). Listed first
4 among these factors is the duty of
5 distributors to maintain effective controls
6 against diversion of controlled substances
7 into other than legitimate medical,
8 scientific, and industrial channels.

9 Do you see that?

10 A. Yes, I see that.

11 Q. And you're familiar with that
12 portion of the regulations, right?

13 MR. EPPICH: Object to the
14 form.

15 A. I don't recall.

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. If you go to the next
18 paragraph, it starts with: The DEA
19 regulations require all distributors to
20 report suspicious orders of controlled
21 substances.

22 Do you see that?

23 A. Yes, I see that.

24 Q. Okay. And you understand that
25 at all times that you were with McKesson that

1 the DEA regulations did require distributors
2 to report suspicious orders of controlled
3 substances?

4 MR. EPPICH: Object to the
5 form. Calls for a legal conclusion.

6 A. It was under the CSA.

7 QUESTIONS BY MR. BOGLE:

8 Q. Right. So you knew that's
9 something that McKesson was supposed to do
10 under the CSA, right?

11 MR. EPPICH: Same objections.

12 A. Yes, I recall.

13 QUESTIONS BY MR. BOGLE:

14 Q. Okay. The next paragraph that
15 starts with "It bears emphasis," do you see
16 that?

17 A. Yes, I see that.

18 Q. It says: It bears emphasis
19 that the foregoing reporting requirement is
20 in addition to, and not in lieu of, the
21 general requirement under 21 U.S.C. 823(e)
22 that a distributor maintain effective
23 controls against diversion.

24 Do you see that sentence?

25 A. Yes, I see that.

1 Q. Were you aware while you were
2 at McKesson that these were two different
3 concepts and that there was a reporting
4 requirement and a separate requirement to
5 maintain effective controls against
6 diversion?

7 MR. EPPICH: Object to the
8 form. Calls for a legal conclusion.

9 A. I don't recall.

10 QUESTIONS BY MR. BOGLE:

11 Q. Okay. While you were working
12 at McKesson, did you operate as if there were
13 two separate requirements, a reporting
14 requirement and also a requirement to have
15 effective controls against diversion?

16 MR. EPPICH: Object to the
17 form.

18 A. I don't recall.

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. It goes on and says:
21 Thus, in addition to reporting all suspicious
22 orders, a distributor has a statutory
23 responsibility to exercise due diligence to
24 avoid filling suspicious orders that might be
25 diverted into other than legitimate medical,

1 scientific, and industrial channels.

2 Do you see that?

3 A. I see that.

4 Q. Okay. And that's referring to
5 the requirement to block suspicious orders
6 when they're detected, right?

7 MR. EPPICH: Object to the
8 form. Foundation.

9 A. I'm not sure.

10 QUESTIONS BY MR. BOGLE:

11 Q. Okay. What do you think that
12 refers to, then?

13 A. I don't know.

14 Q. Okay. So do you have any
15 understanding of what that -- what he's
16 getting at there in that sentence?

17 A. I don't know.

18 Q. Okay. Do you recall ever
19 asking any of your colleagues to help you
20 understand what Mr. Rannazzisi was saying in
21 that sentence that I just read?

22 A. Not that I recall.

23 Q. Okay. Do you ever recall
24 reaching out to anyone at the DEA asking them
25 to explain to you what was meant by the

1 sentence I just read?

2 A. Not that I recall.

3 Q. Okay. That would have fallen
4 within your purview, though. If the DEA's
5 view is that this is part of McKesson's
6 responsibilities under the Controlled
7 Substances Act in 2006 time frame, that would
8 have been within your purview of your
9 responsibilities, right?

10 MR. EPPICH: Object to the
11 form. Assumes facts not in evidence.

12 A. I don't recall.

13 QUESTIONS BY MR. BOGLE:

14 Q. Okay. I think we talked about
15 earlier in the deposition that compliance
16 with the Controlled Substances Act would have
17 been part of your responsibilities in this
18 time frame, right?

19 A. That's correct.

20 Q. Okay. So if the DEA --
21 Mr. Rannazzisi from the DEA is indicating
22 here that there's a requirement here, a
23 regulatory requirement, to avoid filling
24 suspicious orders of controlled substances,
25 would that not have fallen within your

1 purview to make sure that McKesson complied
2 with that portion of the regulations?

3 MR. EPPICH: Object to --
4 object to the form.

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 QUESTIONS BY MR. BOGLE:

11 Q. Okay. The next paragraph down
12 says: In a similar vein, given the
13 requirement under Section 823(e) that a
14 distributor maintain effective controls
15 against diversion, a distributor may not
16 simply rely on the fact that the person
17 placing the suspicious order is a DEA
18 registrant and turn a blind eye to the
19 suspicious circumstances. Again, to maintain
20 effective controls against diversion as
21 Section 823(e) requires, the distributor
22 should exercise due care in confirming the
23 legitimacy of all orders prior to filling.

24 Do you see that?

25 A. Yes, I see that.

1 Q. The last sentence I just read
2 there, what do you understand that to mean?

3 MR. EPPICH: Objection to the
4 form; foundation.

5 A. I'm not sure what it means.

6 QUESTIONS BY MR. BOGLE:

7 Q. Okay. So while you were
8 working at McKesson after you read this
9 letter, you were unclear on what was meant by
10 that last sentence there about confirming the
11 legitimacy of all orders prior to filling?

12 MR. EPPICH: Object to the
13 form. Misstates prior testimony.

14 A. I don't recall what I thought
15 at that time.

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. But as you read it here
18 today, you're not sure what is meant by that.
19 Is that true?

20 MR. EPPICH: Same objections.

21 A. I don't recall.

22 QUESTIONS BY MR. BOGLE:

23 Q. No. I'm asking what you think
24 today.

25 A. I don't know.

1 Q. Okay. You don't have an
2 opinion about what that means?

3 A. No.

4 Q. Okay. But we can agree that
5 you did perform regulatory compliance,
6 including for the Controlled Substances Act
7 for McKesson, all the way up until about two
8 years ago, right?

9 A. That's correct.

10 Q. Okay. And we can also agree
11 this is a letter that you would have read in
12 your course of employment at McKesson, right?

13 A. That's correct.

14 Q. Did you follow up with anyone
15 at DEA about any of -- anything in this
16 letter that you were unclear on?

17 A. Not that I recall.

18 Q. Did you follow up with any of
19 your colleagues at McKesson about anything in
20 this letter that you felt you were unclear
21 on?

22 A. I don't recall.

[illegible]

[illegible]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 QUESTIONS BY MR. BOGLE:

12 Q. Okay. Do you recall there
13 being any meetings with yourself and other
14 people at the regulatory department at
15 McKesson to sort of walk through this letter
16 we're looking at here in Exhibit 3?

17 MR. EPPICH: Object to the
18 form.

19 A. I really don't recall.

20 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[illegible]

19 Q. Okay.

20 MR. EPPICH: Is this a good

21 time to take a break?

22 MR. BOGLE: Sure.

23 THE VIDEOGRAPHER: Off the

24 record at 10:01.

25 (Recess taken, 10:01 a.m. to

1 10:16 a.m.)

2 THE VIDEOGRAPHER: All right,
3 stand by. The time is 10:16, back on
4 the record. Beginning of File 2.

5 QUESTIONS BY MR. BOGLE:

6 Q. Mr. Hilliard, I want to go back
7 just a step here and talk a little bit about
8 sort of the hierarchy of the regulatory
9 department while you were at McKesson. So
10 let's focus on while you were director of
11 regulatory affairs, which I think you told me
12 was roughly 1998 to 2016.

13 So during that time frame, as
14 director of regulatory affairs, who would
15 have been your superiors in the regulatory
16 department?

17 A. Dan White, and when I started
18 in '97 to -- again, I don't remember the
19 exact time frame, a couple of years; and then
20 Ron Bone.

21 Q. What was his title?

22 A. SVP, operations.

23 Q. And that's senior vice
24 president?

25 A. Yes, correct.

1 Q. All right. Of operations?

2 A. Correct.

3 Q. Okay.

4 A. Regulatory rolled up under
5 that.

6 Q. Okay.

7 A. Don Walker after that. And
8 then at some point there, Bruce Russell came
9 in between us and I reported directly to
10 Bruce instead of Don.

11 Q. Okay.

12 A. And then it was back to Don
13 directly, and then finally to Krista Peck.

14 Q. What was her job title?

15 A. SVP of regulatory department.

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay.

18 A. That's not the exact -- correct
19 title, but SVP of regulatory.

20 Q. And again, when you say "SVP,"
21 it means senior vice president.

22 A. Senior vice president.

23 Q. I just want to make sure the
24 record is clear. I think I know what you
25 mean but I want to make sure it's clear.

1 Okay. Let me ask it to you
2 this way just so I understand. So at all
3 times from 1998 to 2016, would there have
4 only been one position in the regulatory
5 department higher than yours on the corporate
6 ladder?

7 A. No, because at the time point
8 for which I reported to Bruce Russell, he
9 would have been a VP, and then Bruce would
10 have reported to Don, so there would have
11 been one additional level there.

12 Q. Okay. So in what time period
13 would that have been where there was two
14 levels above yours?

15 A. I would say 2000, early --
16 first part of the 2000s. I'm not sure how
17 far that goes into.

18 Q. Okay.

19 A. I don't remember when Bruce
20 retired.

21 Q. Okay.

22 A. I want to say 2014, he retired,
23 approximately.

24 Q. Okay. So from this time period
25 from 1998 to 2016, there were points in time

1 where there's one person, one position higher
2 than yours in the regulatory department, and
3 some points in time where there's two
4 positions higher than yours in the regulatory
5 department. Am I understanding that right?

6 A. That's correct.

7 Q. Okay. So as director of
8 regulatory affairs, then, from '98 to 2016,
9 were there positions below yours in the
10 regulatory department, people that reported
11 to you?

12 A. I had one direct report.

13 Q. Okay. And during what time
14 period?

15 A. Approximately 2013 to 2016.

16 Q. Okay. Who was that?

17 A. Cynthia. My mind is going
18 blank on her last name. All she managed was
19 licensure for our facilities.

20 Q. Okay. All right. Shifting
21 gears a little bit, then -- actually, strike
22 that.

23 Again, when we started the
24 deposition, you listed off quite a few
25 different areas of responsibility that you

1 had over time in the regulatory department.

2 Did you consider each of the areas that you
3 had responsibility for to be important areas,
4 important things to you?

5 MR. EPPICH: Object to the
6 form.

7 A. My job was important to me.

8 QUESTIONS BY MR. BOGLE:

9 Q. Okay. And did you feel that
10 you had an important job for McKesson
11 generally, that you held an important role at
12 the company?

13 MR. EPPICH: Object to the
14 form.

15 A. In my opinion, I felt worthy
16 and important to the company.

17 QUESTIONS BY MR. BOGLE:

18 Q. Okay. I guess my question is a
19 little different. Did you feel like your
20 position itself was an important position to
21 the company, that it performed important
22 functions to the company?

23 MR. EPPICH: Object to the
24 form.

25 A. In my opinion, I felt it was

1 important.

2 QUESTIONS BY MR. BOGLE:

[illegible]

22 QUESTIONS BY MR. BOGLE:

23 Q. Okay. And do you recall the
24 Lakeland distribution center at all, that it
25 existed?

1 A. Yes, I do.

| Response | Percentage |
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| Yes, the U.S. should take action to reduce greenhouse gas emissions | 95% |
| No, the U.S. should not take action to reduce greenhouse gas emissions | 5% |

| Age Group | Percentage |
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| 18-24 | 10% |
| 25-34 | 15% |
| 35-44 | 25% |
| 45-54 | 30% |
| 55-64 | 15% |
| 65-74 | 10% |
| 75-84 | 5% |
| 85+ | 5% |

| Government | Percentage |
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| Current government | 85% |
| Previous government | 15% |

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| Age Group | Percentage |
|-----------|------------|
| 18-24 | 10% |
| 25-34 | 20% |
| 35-44 | 25% |
| 45-54 | 20% |
| 55-64 | 15% |
| 65-74 | 10% |
| 75-84 | 5% |
| 85+ | 5% |

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17 Q. Okay. I'm going to hand you
18 what I'm marking as Exhibit 4, which is
19 1.1946, and that's MCKMDL00496859.

20 There you go, sir.

21 (McKesson-Hilliard Exhibit 4
22 was marked for identification.)

23 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

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[illegible]

[illegible]

[illegible]

1 Q. Okay. And you knew in 2005
2 that that was part of McKesson's obligations
3 were to report suspicious orders of
4 controlled substances when they were -- to
5 the DEA when they were discovered, right?

6 MR. EPPICH: Object to the
7 form. Calls for a legal conclusion.

■

■

■

■

12 MR. BOGLE: Okay. Move to
13 strike as nonresponsive.

14 QUESTIONS BY MR. BOGLE:

15 Q. My question simply was: You
16 understood at this point in 2005, by
17 September 2005, that there was an obligation
18 for McKesson to report suspicious orders to
19 the DEA when they were discovered. True?

20 MR. EPPICH: Object to the
21 form. Foundation.

22 A. McKesson did report suspicious
23 orders to the DEA.

24 QUESTIONS BY MR. BOGLE:

25 Q. Okay.

1 MR. BOGLE: Move to strike as
2 nonresponsive.

3 QUESTIONS BY MR. BOGLE:

4 Q. My question was simply: You
5 did have an understanding as of 2005 that
6 there was an obligation for McKesson to
7 report suspicious orders to the DEA when they
8 were discovered. True?

9 MR. EPPICH: Object to the
10 form; calls for a legal conclusion,
11 asked and answered.

12 A. We submitted the reports to the
13 DEA for the controlled substance suspicious
14 order reports.

15 QUESTIONS BY MR. BOGLE:

16 Q. Okay. And why would you do
17 that, then?

18 A. That was the agreed reporting
19 mechanism for the suspicious order that was
20 created from the Suspicious Order Task Force
21 that DEA had agreed was the methodology.

22 Q. What time period are you
23 referring to?

24 A. Approximately '95.

25 Q. Okay. So before you were with

1 the company.

2 A. That's correct.

3 Q. Okay. So you were not a member
4 of any such task force, right?

5 A. That's correct.

6 Q. Okay. And so anything that you
7 would know about the task force came to you
8 from somebody other than yourself, right?
9 You don't have any firsthand knowledge of
10 that.

11 MR. EPPICH: Object to the
12 form.

13 QUESTIONS BY MR. BOGLE:

14 Q. True?

15 A. I was not there.

16 Q. Right. So you don't have any
17 firsthand knowledge of it, true?

18 MR. EPPICH: Object to the
19 form.

20 A. I was not at the meeting.

21 QUESTIONS BY MR. BOGLE:

22 Q. Okay. So therefore you could
23 not have any firsthand knowledge, right?

24 MR. EPPICH: Object to the
25 form.

1 A. I was not -- I did not attend
2 the meeting of the task force.

3 QUESTIONS BY MR. BOGLE:

4 Q. Okay. Do you know of anyone
5 from McKesson that did?

6 A. I don't recall.

7 Q. Okay. Did you keep any written
8 documentation from the DEA that would have
9 come from this task force you're referencing
10 that says, you know, the DEA -- this is our
11 stamp of approval that this is the mechanism
12 that we approved to report suspicious orders?

13 MR. EPPICH: Objection --

14 QUESTIONS BY MR. BOGLE:

15 Q. Did you keep a file like that?

16 MR. EPPICH: Object to the
17 form.

18 A. I don't recall if there was a
19 form associated with the outcome of that
20 meeting.

21 QUESTIONS BY MR. BOGLE:

22 Q. Okay. I'm just asking if you
23 had any sort of documentation that you kept
24 for yourself to make sure that you felt
25 comfortable that that was the proper

1 reporting mechanism.

2 MR. EPPICH: Object to the
3 form. Vague.

4 A. Through my career, whenever I
5 had information from the DEA, then I would
6 maintain copies of it.

7 QUESTIONS BY MR. BOGLE:

8 Q. Okay. So if you had any
9 correspondence from the DEA that said that
10 this was a reporting mechanism they signed
11 off on, you would have kept that, right?

12 MR. EPPICH: Object to the
13 form.

14 A. I wasn't at the meeting, so I
15 don't have -- I didn't have any documentation
16 on that, I don't recall having documentation
17 on that.

18 But as I said, throughout the
19 course of my career, if I did receive some
20 type of letter, like an extension to DEA
21 registrations, then we would maintain that
22 letter.

23 QUESTIONS BY MR. BOGLE:

24 Q. So let's go to page .10 then.



[illegible]

[illegible]

A horizontal bar chart with 25 rows. Each row consists of a small gray square on the left and a gray bar of varying length. The bars are arranged in a pattern that suggests a sequence or flow, with some bars being longer than others and some having gaps between them.

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7 QUESTIONS BY MR. BOGLE:

8 Q. You would agree with me that
9 the primary responsibility for investigating
10 suspicious orders or suspicious customers or
11 suspicious activity for a customer falls on
12 McKesson, right? For any product it's
13 selling.

14 MR. EPPICH: Object to the
15 form; foundation. Calls for a legal
16 conclusion.

17 A. Okay. Restate the question.

18 QUESTIONS BY MR. BOGLE:

19 Q. Sure.
20 You would agree the primary
21 responsibility for investigating suspicious
22 orders or suspicious activity of a customer
23 of McKesson's falls primarily on McKesson,
24 right?

25 MR. EPPICH: Object to the

1 form. Foundation. Calls for a legal
2 conclusion.

3 A. I'm not sure.

4 QUESTIONS BY MR. BOGLE:

5 Q. Okay. Is that not the way that
6 you performed your job, with that sort of
7 belief in mind?

8 MR. EPPICH: Object to the
9 form. Foundation. Calls for a legal
10 conclusion.

11 A. I don't know.

12 QUESTIONS BY MR. BOGLE:

13 Q. You don't know? Okay.

14 So when you came in to work
15 every day as director of regulatory affairs,
16 would you or would you not have the mindset
17 that the primary responsibility to make sure
18 that we're not putting out suspicious orders
19 of controlled substances falls on us as
20 McKesson?

21 MR. EPPICH: Object to the
22 form.

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED]

3 QUESTIONS BY MR. BOGLE:

4 Q. Yeah, I guess I'm asking the
5 question a little differently than that,
6 though. What I'm asking is: When you came
7 to work every day from 1997 to 2016 and were
8 director of regulatory affairs at McKesson,
9 with what you've said is an important job,
10 did you take that job to mean that the
11 primary responsibility for making sure that
12 suspicious orders didn't go out to customers
13 fell on McKesson as opposed to somebody else?

14 MR. EPPICH: Object to the form
15 to the extent it calls for a legal
16 conclusion.

17 A. I don't recall what I thought
18 when I walked into the office each day.

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. Do you ever recall a day
21 at work where you sat down and said, "I've
22 got to make sure, as director of regulatory
23 affairs, that suspicious orders do not go to
24 customers from McKesson when it comes to
25 controlled substances"?

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

10 QUESTIONS BY MR. BOGLE:

11 Q. Okay. I'm going to hand you
12 what I'm marking as Exhibit 5, which is
13 1.1789, and that's MCKMDL00496876.

14 (McKesson-Hilliard Exhibit 5
15 was marked for identification.)

16 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

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[REDACTED]

18 Q. Who is Mr. Gilbert?

19 A. Outside counsel.

20 Q. So he's you guys' lawyer,
21 right?

22 A. Correct.

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6 Q. So having a DEA registration
7 surrendered or having an Order to Show Cause
8 brought against a distribution center, those
9 are serious enforcement actions, right?

10 MR. EPPICH: Object to the
11 form.

12 A. They are serious.

13 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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A horizontal bar chart with 20 rows. Each row consists of a small square marker on the left and a corresponding horizontal bar. The bars vary in length and are positioned at different vertical levels, suggesting a non-linear scale. The bars are gray, and the background is white.

| Row | Percentage (approximate) |
|-----|--------------------------|
| 1 | 85% |
| 2 | 80% |
| 3 | 75% |
| 4 | 82% |
| 5 | 65% |
| 6 | 35% |
| 7 | 80% |
| 8 | 25% |
| 9 | 15% |
| 10 | 55% |
| 11 | 45% |
| 12 | 70% |
| 13 | 60% |
| 14 | 85% |
| 15 | 85% |
| 16 | 70% |
| 17 | 70% |
| 18 | 80% |
| 19 | 25% |
| 20 | 80% |

[illegible]

[illegible]

16 MR. BOGLE: Let me get my
17 copies here, sorry. Slight delay.
18 I'm emptying boxes.
19 MR. EPPICH: I'm going to stand
20 up for this one.
21 QUESTIONS BY MR. BOGLE:
22 Q. All right. I'm handing you
23 what I'm marking as Exhibit 6, which is
24 1.1943, MCKMDL00496306.
25 (McKesson-Hilliard Exhibit 6

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

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A horizontal bar chart with 20 rows. Each row consists of a small square marker on the left and a gray horizontal bar of varying length extending to the right. The bars represent percentages of respondents for different categories. The lengths of the bars vary significantly, with some being very short and others nearly spanning the width of the chart area.

| Category | Percentage (%) |
|----------|----------------|
| 1 | 85 |
| 2 | 45 |
| 3 | 35 |
| 4 | 25 |
| 5 | 75 |
| 6 | 40 |
| 7 | 45 |
| 8 | 80 |
| 9 | 70 |
| 10 | 35 |
| 11 | 85 |
| 12 | 30 |
| 13 | 45 |
| 14 | 55 |
| 15 | 90 |
| 16 | 20 |
| 17 | 45 |
| 18 | 80 |
| 19 | 85 |
| 20 | 30 |

[illegible]

20 MR. EPPICH: Hold on. Hold on.
21 Let me pause here. I'd just caution
22 the witness that if this question is
23 seeking anything that's any
24 discussions or conferences with
25 counsel, that those would be

1 privileged discussions and I'd
2 instruct the witness not to answer.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and the role of the accounting department in ensuring the integrity of the financial statements.

2. It also highlights the need for transparency and accountability in the financial reporting process, emphasizing the importance of clear communication and collaboration between all stakeholders involved.

3. The second part of the document focuses on the implementation of internal controls and the establishment of a robust risk management framework to identify and mitigate potential risks to the organization's financial health.

4. This section also addresses the importance of regular audits and the role of the audit committee in overseeing the audit process and ensuring the reliability of the financial information.

5. The third part of the document discusses the importance of maintaining accurate records of all transactions and the role of the accounting department in ensuring the integrity of the financial statements.

6. It also highlights the need for transparency and accountability in the financial reporting process, emphasizing the importance of clear communication and collaboration between all stakeholders involved.

7. The fourth part of the document focuses on the implementation of internal controls and the establishment of a robust risk management framework to identify and mitigate potential risks to the organization's financial health.

8. This section also addresses the importance of regular audits and the role of the audit committee in overseeing the audit process and ensuring the reliability of the financial information.

9. The fifth part of the document discusses the importance of maintaining accurate records of all transactions and the role of the accounting department in ensuring the integrity of the financial statements.

10. It also highlights the need for transparency and accountability in the financial reporting process, emphasizing the importance of clear communication and collaboration between all stakeholders involved.

11. The sixth part of the document focuses on the implementation of internal controls and the establishment of a robust risk management framework to identify and mitigate potential risks to the organization's financial health.

12. This section also addresses the importance of regular audits and the role of the audit committee in overseeing the audit process and ensuring the reliability of the financial information.

13. The seventh part of the document discusses the importance of maintaining accurate records of all transactions and the role of the accounting department in ensuring the integrity of the financial statements.

14. It also highlights the need for transparency and accountability in the financial reporting process, emphasizing the importance of clear communication and collaboration between all stakeholders involved.

15. The eighth part of the document focuses on the implementation of internal controls and the establishment of a robust risk management framework to identify and mitigate potential risks to the organization's financial health.

16. This section also addresses the importance of regular audits and the role of the audit committee in overseeing the audit process and ensuring the reliability of the financial information.

17. The ninth part of the document discusses the importance of maintaining accurate records of all transactions and the role of the accounting department in ensuring the integrity of the financial statements.

18. It also highlights the need for transparency and accountability in the financial reporting process, emphasizing the importance of clear communication and collaboration between all stakeholders involved.

19. The tenth part of the document focuses on the implementation of internal controls and the establishment of a robust risk management framework to identify and mitigate potential risks to the organization's financial health.

20. This section also addresses the importance of regular audits and the role of the audit committee in overseeing the audit process and ensuring the reliability of the financial information.

[illegible]

[illegible]

[illegible]

A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing percentages. The bars are gray, and the background is white. The chart is enclosed in a black border.

| Category | Percentage |
|----------|------------|
| 1 | 85% |
| 2 | 85% |
| 3 | 82% |
| 4 | 75% |
| 5 | 88% |
| 6 | 15% |
| 7 | 35% |
| 8 | 35% |
| 9 | 45% |
| 10 | 10% |
| 11 | 65% |
| 12 | 25% |
| 13 | 35% |
| 14 | 35% |
| 15 | 55% |
| 16 | 10% |
| 17 | 65% |
| 18 | 75% |
| 19 | 75% |
| 20 | 75% |
| 21 | 85% |
| 22 | 85% |
| 23 | 85% |
| 24 | 80% |
| 25 | 85% |
| 26 | 85% |
| 27 | 40% |
| 28 | 35% |
| 29 | 35% |

[illegible]

[illegible]

[REDACTED]

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. Let's look at
21 Exhibit 1.1947, which is Exhibit 7 to your
22 deposition, and that's MCKMDL00497154.

23 (McKesson-Hilliard Exhibit 7
24 was marked for identification.)

25 --oOo--

1 QUESTIONS BY MR. BOGLE:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. A vertical margin line is positioned on the left side, creating a narrow left margin. The paper appears to be a standard notebook page or a form template. There are no markings, text, or illustrations on the page.

[illegible]

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- **1. Introduction**
- **2. Background**
- **3. Methodology**
- **4. Results**
- **5. Discussion**
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1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the statistical analysis performed.

3. The third part of the document presents the results of the study. It includes a series of tables and graphs that illustrate the findings of the research. The data shows a clear trend of increasing activity over time.

4. The fourth part of the document discusses the implications of the findings. It suggests that the results have significant implications for the field of research and may lead to further developments in the future.

5. The fifth part of the document concludes the study. It summarizes the main findings and provides a final statement on the importance of the research.

6. The sixth part of the document includes a list of references. It cites the various sources of information used in the study, including books, articles, and other documents.

7. The seventh part of the document includes a list of figures. It provides a detailed description of each figure and its location within the document.

8. The eighth part of the document includes a list of tables. It provides a detailed description of each table and its location within the document.

9. The ninth part of the document includes a list of appendices. It provides a detailed description of each appendix and its location within the document.

10. The tenth part of the document includes a list of footnotes. It provides a detailed description of each footnote and its location within the document.

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 1.1951, Bates number is MCKMDL00496536.

14 THE REPORTER: 10?

15 MR. BOGLE: Did I skip one?

16 I'm sorry, let me get that number
17 back. I may have skipped -- missing
18 some stickers here. Oh, I buried it.
19 Okay. Sorry.

20 (McKesson-Hilliard Exhibit 8
21 was marked for identification.)

22 QUESTIONS BY MR. BOGLE:

23 Q. So it's actually Exhibit 8 is
24 Exhibit 1.1951, so correcting the number.
25 Same document, just correcting the exhibit

1 number.

1



[illegible]

[illegible]

[illegible]

█ [REDACTED]

2 MR. EPPICH: Objection. I
3 think that we are now on the edge of
4 seeking attorney-client
5 communications.

6 MR. BOGLE: I'm just asking him
7 whether the communication occurred,
8 not the substance of it.

9 QUESTIONS BY MR. BOGLE:

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 MR. EPPICH: I'm going to
10 instruct the witness not to answer
11 that question. You're treading on
12 that line again. You may ask him if
13 he had a communication with his
14 counsel about the document.

15 MR. BOGLE: I think that's what
16 I just asked.

17 MR. EPPICH: No, you stepped
18 over the line.

19 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 MR. EPPICH: Brandon, let's go
10 ahead and take a break.

11 MR. BOGLE: Okay.

12 THE VIDEOGRAPHER: Off the
13 record at 11:34.

14 (Recess taken, 11:34 a.m. to
15 11:45 a.m.)

16 THE VIDEOGRAPHER: All right,
17 stand by. The time is 11:45, back on
18 the record. Beginning of File 3.

19 QUESTIONS BY MR. BOGLE:

20 Q. All right, Mr. Hilliard, I want
21 to shift gears to a different topic here with
22 you. We talked a little bit earlier just
23 briefly about the DU45 report.

24 Do you recall that discussion
25 generally?

1 A. Yes.

2 Q. Okay. And also talked a little
3 bit about Section 55 generally.

4 Do you recall that discussion?

5 A. Yes.

6 Q. Okay. So Section 55 was the
7 standard operating procedure that was in
8 place when you joined McKesson that was meant
9 to be the Suspicious Order Monitoring Program
10 for the company. True?

11 MR. EPPICH: Object to the
12 form.

13 A. There was a section within
14 Section 55 that contained that type of
15 information.

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. So it was included
18 within Section 55. True?

19 A. Correct.

20 Q. Okay. I think you told me, I
21 just want to make sure I understand. When
22 you joined the company in 1997, Section 55,
23 and specifically the components with the
24 suspicious order monitoring provisions, were
25 already in place. True?

1 A. Correct.

2 Q. Okay. And the DU45 was one of
3 the reports listed in Section 55 that would
4 be produced and submitted to the DEA,
5 correct?

6 A. That's correct.

7 Q. Okay. I'll take a look at a
8 few components of Section 55 here. So I'm
9 going to hand you what I'm marking as
10 Exhibit 9, which is 1.1555. The Bates number
11 is MCKMDL00346554.

12 (McKesson-Hilliard Exhibit 9
13 was marked for identification.)

14 QUESTIONS BY MR. BOGLE:

15 Q. When I read all those Bates
16 numbers, you can ignore me. I'm supposed to
17 do that, unfortunately. I won't be asking
18 you Bates number quizzes, I can promise you
19 that.

20 A. Thank you.

21 Q. Okay. What I've handed you
22 here is the Drug Operations Manual,
23 Section 55, dated July 2000, correct?

24 A. That is correct.

25 Q. Okay. And again, I think you

1 said this, but you're familiar with this
2 manual, correct?

3 A. Yes, I am.

4 Q. All right. Let's go to -- ah
5 jeez, wrong page number. Page .29. Sorry.

6 A. I'm sorry, repeat that?

7 Q. .29?

8 A. .29.

9 Q. Yes, sir.

10 Okay. On this page, you see
11 there's a section (c) titled Daily Controlled
12 Substance Suspicious Order Warning Report,
13 and then it's listed a bunch of other stuff,
14 but including DU45L500.

15 Do you see that?

16 A. Yes, I see that.

17 Q. Okay. So this section here
18 talks about the daily version of the DU45
19 report. True?

20 A. Yes.

21 Q. Okay. And if you go down to
22 the next paragraph, it says: The same
23 factors that are used for the Customer Recap
24 Variance -- and then it gives a description
25 of the report -- are also used for the Daily

1 Controlled Substance Suspicious Order Warning
2 Report.

3 Then it says: 3X monthly
4 average for Schedule II and Schedule III
5 reportables and 8X/monthly averages for
6 IIIN-V.

7 Do you see that?

8 A. Yes, I see that.

9 Q. Okay. So I want to break that
10 down and make sure it's clear on what that
11 means. So both for the DU45 reports run
12 daily and monthly, an order would appear on
13 the report for any controlled substance
14 that's in Schedule II or Schedule III if the
15 order was three times the average for
16 customers of McKesson for that product.
17 True?

18 MR. EPPICH: Object to the
19 form.

20 A. It was three times the monthly
21 average for 12-month sales and it was for
22 Schedule II and III narcotics.

23 QUESTIONS BY MR. BOGLE:

24 Q. Okay. So included within that
25 would be opioids, right?

1 A. Correct.

2 Q. Okay. So you said a 12-month
3 history, so let's talk about how that worked.
4 Was it a 12-month same customer history that
5 this number would be derived from?

6 A. Yes, that's correct.

7 Q. Okay. So, for example, you
8 would look at the 12 months for X pharmacy,
9 the prior 12 months, and you would do what
10 with that data to determine how the three
11 times average would be generated?

12 MR. EPPICH: Object to the
13 form; foundation.

14 QUESTIONS BY MR. BOGLE:

15 Q. Walk me through that process.

16 A. The system is taking 12 months'
17 worth of sales history based on that item and
18 then adds a factor of three times, I'm sorry,
19 three times the average, and if the orders
20 exceed that threshold then it shows up on the
21 report.

22 Q. Okay. And so an average is
23 generated from the prior 12 months. Does
24 that roll over every month so it's looking at
25 a new 12-month period?

1 MR. EPPICH: Object to the
2 form.

3 A. As I recall, it's a rolling
4 12-month period.

5 QUESTIONS BY MR. BOGLE:

6 Q. Right. So we'll walk through
7 this just to make sure it's clear. So let's
8 say, for example, we're in February 2007.
9 The prior 12 months' data that would be
10 looked at for February 2007 would be the 12
11 months prior to that month. True?

12 A. Correct.

13 Q. Okay. So, for example, when
14 you go to March 2007, that would then include
15 the February 2007 data and the first month
16 from the prior 12 months would drop off the
17 analysis. True?

18 A. I believe that to be correct.

19 Q. Okay. So if a customer's
20 orders for a given month did not exceed three
21 times their prior 12-month average, they
22 would not appear on the DU45 report. True?

23 A. That's correct.

24 Q. Okay. Were there any other
25 calculations that went into the DU45 report

1 other than the prior 12 months' average and
2 looking at three times that average, if it
3 hits that, it gets kicked to the report? Any
4 other variables?

5 MR. EPPICH: Object to the
6 form.

7 A. Not to my knowledge.

8 QUESTIONS BY MR. BOGLE:

9 Q. Okay. All right. I want to
10 look at a DU45 report that was produced to
11 us. You may want to keep this exhibit kind
12 of just near you, but I want to look at a
13 sample DU45 with you.

14 All right. I'm going to hand
15 you what I'm marking as Exhibit 10, which is
16 1.2100. Bates number is MCKMDL00660789.

17 (McKesson-Hilliard Exhibit 10
18 was marked for identification.)

19 QUESTIONS BY MR. BOGLE:

20 Q. Here's your version. I
21 shouldn't say "version," they're all the
22 same, but your copy. It's beefy.

23 Okay. And what I've handed
24 you, Mr. Hilliard, I'll represent to you was
25 produced to us as part of this litigation as

1 being a DU45 report from -- I believe it's
2 the Oklahoma City distribution center. I
3 think you can determine that on the second
4 page of the document, that that's the
5 distribution center this pertains to. Let me
6 know if you disagree with that.

7 A. Yes. This does appear to come
8 from the Oklahoma City distribution center.

9 Q. Okay. And going back to the
10 first page, this is noted to be a monthly
11 report that I'm showing you here, right?

12 A. That is correct.

13 Q. Okay. And it's dated
14 April 3rd, 2007. That's the date on the
15 first page, right?

16 A. That's what's stated on the
17 first page.

18 Q. Okay. So you obviously have an
19 understanding and knowledge of DU45 reports.
20 Is what I'm showing you here consistent with
21 what a DU45 report would look like, a monthly
22 report?

23 A. Yes.

24 Q. Okay. Now, these would -- so
25 this would be submitted to the DEA on a

1 monthly basis, correct? This version.

2 A. That's correct.

3 MR. EPPICH: Object to the
4 form.

5 QUESTIONS BY MR. BOGLE:

6 Q. And just looking, for example,
7 at a few of these pages, I'm looking at the
8 second page, which is Bates ending 0790,
9 there's three fentanyl orders listed here for
10 this customer, right?

11 MR. EPPICH: Objection,
12 foundation.

13 A. Fentanyl is listed here, yes.

14 QUESTIONS BY MR. BOGLE:

15 Q. Okay. Fentanyl being an opioid
16 product, right?

17 MR. EPPICH: Objection,
18 foundation.

19 A. Yes, it is.

20 QUESTIONS BY MR. BOGLE:

21 Q. Okay. And go to the next page,
22 for example, there's an order listed for this
23 customer for oxycodone, an oxycodone
24 combination product, right?

25 A. That's what's stated, yes.

1 Q. Okay. Again, another opioid,
2 right?

3 A. Yes, that's correct.

4 Q. Okay. If you flip over to the
5 next page, Bates page ending 0792, there are
6 what I count to be 11 separate orders here
7 for this customer, again, all for various
8 opioid products, right?

9 MR. EPPICH: Objection,
10 foundation.

11 A. That is what's listed here.

12 QUESTIONS BY MR. BOGLE:

13 Q. Okay. And I'm not going
14 through every page here, but just one more
15 just to show you.

16 Page 0793, for this customer,
17 there are -- looks like nine different orders
18 for either hydrocodone or oxycodone listed
19 here, right?

20 A. That is what's listed.

21 Q. Okay. And so what's listed in
22 this report, for example, at this time
23 period, April 2007, would have been orders
24 that were placed by a customer, filled by
25 McKesson, and then appeared on this report

1 thereafter and sent to the DEA, right?

2 MR. EPPICH: Object to the

3 form. Calls for speculation.

4 A. That would have been the

5 process.

6 QUESTIONS BY MR. BOGLE:

7 Q. Right. Because these are all

8 sales. This product was provided to the

9 customers, right? Everything listed in this
10 report.

11 MR. EPPICH: Object to the

12 form, the characterization.

13 A. That is my recollection.

14 QUESTIONS BY MR. BOGLE:

15 Q. Right. So the DU45 report is

16 listing sales, not just the order prior to

17 the sale, right?

18 MR. EPPICH: Object to the

19 form, characterization.

20 A. My recollection is it contains

21 the sales.

22 QUESTIONS BY MR. BOGLE:

23 Q. Right. And, for example, if

24 you see on 0793 in the left-hand column,

25 there's actually invoice numbers and invoice

1 dates for each of these, right?

2 A. Yes, there is.

3 Q. And you invoice at the time of
4 sale, right?

5 MR. EPPICH: Objection;
6 foundation, calls for speculation.

7 A. I don't recall if it was the
8 time of sale or date of shipment.

9 QUESTIONS BY MR. BOGLE:

10 Q. Or of shipment, okay.

11 A. Shipment date.

12 Q. All right. So, for example,
13 what we've got here as Exhibit 10 is, I
14 believe, about 600-plus pages of what
15 McKesson deemed for this month to be
16 suspicious Schedule II or Schedule III
17 controlled substance orders, right?

18 MR. EPPICH: Objection to the
19 form.

20 A. These are what showed up on our
21 suspicious order report as -- and then
22 reported to the DEA.

23 QUESTIONS BY MR. BOGLE:

24 Q. Right. But what the whole
25 purpose of this was, you're providing 600 --

1 in this instance, 600-plus pages to the DEA
2 for this month of suspicious controlled
3 substance sales that McKesson had made from
4 the prior month, right?

5 MR. EPPICH: Objection to the
6 form and the characterization.

7 A. They were submitted for DEA to
8 review. The report is titled "suspicious"
9 but it's orders that need to be reviewed and
10 they were supplied to DEA for review.

11 QUESTIONS BY MR. BOGLE:

12 Q. Okay. So let me make sure I
13 understand that. So when these reports would
14 have been submitted to the DEA, it was not
15 the intent of the regulatory department for
16 the conclusion to be drawn that McKesson
17 believed these were suspicious orders. Is
18 that true?

19 MR. EPPICH: Object to the
20 form; calls for speculation.

21 A. This was part of the Suspicious
22 Order Task Force. This was the format for
23 which industry came to the conclusion to
24 provide this information to the DEA and DEA
25 was good with it. There was DEA inspections

1 that had occurred in our facilities and there
2 was never an issue with that. So this is the
3 format for which the original documentation
4 was supplied to DEA.

5 MR. BOGLE: I move to strike as
6 nonresponsive.

7 QUESTIONS BY MR. BOGLE:

8 Q. My question was simply that
9 during the time that you were with McKesson
10 in the regulatory department, was it your
11 understanding that the intent was when a DU45
12 report like the one we're looking at here was
13 supplied to the DEA, was that -- was that
14 intended to or not intended to be what
15 McKesson deemed to be suspicious orders from
16 the prior month?

17 MR. EPPICH: Object to the
18 form. It calls for speculation; asked
19 and answered.

20 A. Yeah. Again, it was -- this is
21 what needed to be reviewed. This was not
22 specifically a suspicious order.

23 QUESTIONS BY MR. BOGLE:

24 Q. Okay. So the view during this
25 time period when DU45s were used were that

1 this is not specifically a suspicious order
2 report. Am I understanding you right?

3 MR. EPPICH: Object to the
4 form. Misstates prior testimony.

5 QUESTIONS BY MR. BOGLE:

6 Q. If I'm misstating it, let me
7 know. I'm trying to understand.

8 A. The title was Suspicious Order
9 Report or Suspicious Purchase Report, but
10 this -- with the vast quantity of orders that
11 are conducted on a daily and nightly basis,
12 this provides a threshold for which to
13 review.

14 And so reviews would be
15 conducted nightly on the reports and they'd
16 be flagged and then submitted to the DEA, and
17 then the report in its entirety would be
18 provided to the DEA on a monthly basis. So
19 they would have all this information.

20 Q. Right. I'm asking about from
21 McKesson's perspective, though, not DEA's
22 perspective. So from McKesson's perspective
23 as you understood it in the regulatory
24 department -- strike that, let me make it
25 even easier.

[illegible]

[illegible]

| Row | Bar Length (approx. % of total width) |
|-----|---------------------------------------|
| 1 | 85 |
| 2 | 95 |
| 3 | 35 |
| 4 | 55 |
| 5 | 15 |
| 6 | 15 |
| 7 | 80 |
| 8 | 60 |
| 9 | 15 |
| 10 | 15 |
| 11 | 100 |
| 12 | 45 |
| 13 | 15 |
| 14 | 15 |
| 15 | 60 |
| 16 | 50 |
| 17 | 15 |
| 18 | 15 |
| 19 | 80 |
| 20 | 70 |
| 21 | 95 |
| 22 | 85 |
| 23 | 90 |
| 24 | 70 |
| 25 | 25 |

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 QUESTIONS BY MR. BOGLE:

13 Q. Okay.

14 (McKesson-Hilliard Exhibit 11
15 was marked for identification.)

16 QUESTIONS BY MR. BOGLE:

17 Q. I'm going to hand you what I'm
18 marking as Exhibit 1.1823, which is
19 Exhibit 11 to your deposition, and that's

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25 Q. And you would have been a

1 member of HDMA at this point in time, right?

2 A. I was a member during this
3 time.

4 Q. Okay. What does HDMA stand
5 for?

6 A. Healthcare Distribution
7 Management Association.

8 Q. And again, that was y'all's
9 trade association, right?

10 A. That's correct.

| Response | Percentage |
|--|------------|
| Yes, the U.S. should take action to reduce greenhouse gas emissions | 95% |
| No, the U.S. should not take action to reduce greenhouse gas emissions | 5% |

[illegible]

[illegible]

■ [REDACTED]

■ [REDACTED]

3 Q. Okay. I'll hand you what I'm
4 marking as Exhibit 12, which is 1.1667, and
5 that's MCKMDL00510747.

6 (McKesson-Hilliard Exhibit 12
7 was marked for identification.)

8 QUESTIONS BY MR. BOGLE:

9 Q. All right. And we're going to
10 walk through from back to front here, but
11 just starting at the front, you see that top
12 e-mail there is one that you're copied on,
13 right?

14 A. Yes, I am copied on it.

15 Q. And you understand sort of how
16 e-mails work; once you appear on this e-mail,
17 the ones prior to it, you would also have
18 been able to view, right?

19 A. Okay.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

| | | |
|-----|-----|-----|
| 1 | 2 | 3 |
| 4 | 5 | 6 |
| 7 | 8 | 9 |
| 10 | 11 | 12 |
| 13 | 14 | 15 |
| 16 | 17 | 18 |
| 19 | 20 | 21 |
| 22 | 23 | 24 |
| 25 | 26 | 27 |
| 28 | 29 | 30 |
| 31 | 32 | 33 |
| 34 | 35 | 36 |
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| 94 | 95 | 96 |
| 97 | 98 | 99 |
| 100 | 101 | 102 |

2 QUESTIONS BY MR. BOGLE:

3 Q. Yeah. I'm just asking whether
4 you agree or disagree that simply reporting
5 larger-than-usual orders does not meet the
6 spirit and letter of the suspicious order
7 reporting regulation. Agree or disagree?

8 MR. EPPICH: Object to the
9 form; asked and answered.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 QUESTIONS BY MR. BOGLE:

12 Q. Okay. Well, do you want to
13 look at the -- I'm happy to give you whatever
14 time you need to look at the full e-mail
15 chain. I'm not trying to take anything out
16 of context for you here. Feel free. Let's
17 do that.

18 Let's take -- take a minute.
19 It's, I think, seven pages or eight pages --
20 six pages. Let me know when you're done
21 reading the six pages, but that's my question
22 that I'm going to ask you again. Let me know
23 when you're ready.

24 (Document review by witness.)

25 A. Restate your question.

1 QUESTIONS BY MR. BOGLE:

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| Response | Percentage |
|---|------------|
| Yes, the U.S. should take action to address climate change | 95% |
| No, the U.S. should not take action to address climate change | 5% |

20 MR. BOGLE: Move to strike as

21 nonresponsive.

22 QUESTIONS BY MR. BOGLE:

23 Q. Let me reask my question

24 because I think it's very straightforward.

25 My question is, simply: Do you

1 agree or disagree that, standing alone,
2 providing a report that simply lists
3 larger-than-usual orders does not comply with
4 the suspicious order reporting requirements
5 of the Controlled Substances Act?

6 MR. EPPICH: Object to the
7 form.

8 QUESTIONS BY MR. BOGLE:

9 Q. I'm not asking about additional
10 stuff. I'm asking whether you think that
11 alone is good enough to meet that regulation.
12 Yes or no?

13 MR. EPPICH: Object to form;
14 asked and answered, calls for a legal
15 conclusion.

16 QUESTIONS BY MR. BOGLE:

17 Q. We'll talk about the rest of it
18 later, I promise you.

19 MR. EPPICH: He's answered this
20 question three times now.

21 MR. BOGLE: He hasn't come
22 close. I mean, I'd love it if he had.

23 MR. EPPICH: You're looking for
24 a yes-or-no answer. He's given you
25 the answer. It may not be the answer

[illegible]

A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing different percentages for each category. The bars are gray and set against a white background with a thin black border.

| Category | Percentage |
|----------|------------|
| 1 | 10% |
| 2 | 80% |
| 3 | 20% |
| 4 | 40% |
| 5 | 30% |
| 6 | 45% |
| 7 | 10% |
| 8 | 80% |
| 9 | 10% |
| 10 | 40% |
| 11 | 30% |
| 12 | 80% |
| 13 | 20% |
| 14 | 45% |
| 15 | 10% |
| 16 | 80% |
| 17 | 80% |
| 18 | 80% |
| 19 | 85% |
| 20 | 80% |
| 21 | 40% |
| 22 | 80% |

■ [REDACTED]

2 MR. BOGLE: Okay. I'm going to
3 something else, so if you want to take
4 it now or I can plug along if you
5 want.

6 MR. EPPICH: That's fine, let's
7 take a lunch.

8 THE VIDEOGRAPHER: Off the
9 record at 12:31.

10 (Recess taken, 12:31 p.m. to
11 1:17 p.m.)

12 THE VIDEOGRAPHER: Stand by.
13 The time is 1:17 p.m. Back on the
14 record, beginning of File 4.

15 QUESTIONS BY MR. BOGLE:

■ [REDACTED] ■ [REDACTED] ■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. And you're aware that
18 occurred, right? That a settlement occurred
19 in 2008?

20 A. Yes, I am.

21 Q. Okay. And you're aware that
22 settlement pertained to allegations from the
23 DEA that McKesson violated the Controlled
24 Substances Act in distributing opioids from
25 several of its distribution centers, right?

1 A. Correct.

2 Q. Okay. Have you seen the
3 settlement agreement itself?

4 A. I have seen it at one time.

5 Q. Okay. All right. I'm going to
6 hand you what I'm marking as Exhibit 13,
7 which is also 1.889, and that's
8 MCKMDL00337001.

9 (McKesson-Hilliard Exhibit 13
10 was marked for identification.)

11 QUESTIONS BY MR. BOGLE:

12 Q. Here you go, sir.

13 Okay. What I've just handed
14 you, Mr. Hilliard, as Exhibit 13 is titled at
15 the top Settlement and Release Agreement and
16 Administrative Memorandum Agreement dated in
17 the first paragraph May 2nd, 2008.

18 Do you see that?

19 A. Yes, I see that.

20 Q. Okay. And do you recognize
21 this to be the settlement agreement we just
22 referenced from 2008?

23 A. Yes.

24 Q. Okay. And if we'd go
25 specifically to -- let's see, my page numbers

1 are different here. There's an Appendix B
2 about halfway through the document that
3 starts the actual settlement agreement. Do
4 you see where I'm at there? Sorry, my page
5 numbers don't match yours on this so I can't
6 give you a specific number. I'm sorry, I
7 would if I could. For reason -- but that's
8 what the page looks like right there.

9 MR. EPPICH: I think it's on
10 Bates 337012.

11 QUESTIONS BY MR. BOGLE:

12 Q. It says Appendix B at the top
13 left, Settlement Agreement at the top middle.

14 See where I'm at?

15 A. Found it.

16 Q. All right. So this starts the
17 actual settlement agreement itself. So I
18 want to go to the next page that talks about
19 the covered conduct in the agreement, which
20 is number 8 in the middle of the page.

21 Do you see where I'm at?

22 A. Yes, I do.

23 Q. Okay. And A there says:

24 Within the District of Maryland: From
25 January 2005 through October 2006,

1 McKesson-Landover sold approximately
2 3 million dosage units of hydrocodone to
3 NewCare Pharmacy in Baltimore, and failed to
4 report these sales as suspicious orders to
5 DEA when discovered, as required by and in
6 violation of -- and then it lists the C.F.R.
7 and the U.S.C.

8 And then it says: Further,
9 from August 2006 to February 2007,
10 McKesson-Landover sold large quantities of
11 phentermine-based products to Smeeta Pharmacy
12 in Highland, Maryland, and failed to report
13 these sales as suspicious orders to DEA when
14 discovered, as required by and in violation
15 of -- and again it lists the statutes.

16 Do you see where I'm reading
17 there?

18 A. I see that.

■ ■ ■ ■ ■
■ ■ ■ ■ ■
■ ■ ■ ■ ■
■ ■ ■ ■ ■

23 Q. Okay. Then if you see in
24 section B, and I wasn't going to read this
25 whole section but you can look at it here for

1 yourself, this talks about the conduct that
2 we actually covered for the seven
3 pharmacies -- seven Florida pharmacies that
4 were handled by the Lakeland distribution
5 center, right?

6 A. Yes. It's listed here.

7 Q. And that's the same conduct we
8 talked about before, right? That's what they
9 discuss here.

10 A. Yes.

11 Q. Okay. And then in letter C:
12 Within the Southern District of Texas, it
13 says: From February to September 2007,
14 McKesson-Conroe sold approximately 2.6
15 million dosage units of hydrocodone to
16 Mercury Drive Pharmacy and Maswoswe's
17 Alternative Pharmacy and failed to report
18 these sales as suspicious orders to DEA when
19 discovered, as required by and in violation
20 of -- and again it lists the statutes.

21 You see that there?

22 A. I see that.

23 Q. And on the next page, it
24 continues with letters D, E and F. Letters D
25 involve allegations of large quantities of

1 hydrocodone sent to three Colorado pharmacies
2 out of the McKesson-Aurora distribution
3 center from September 2005 to November 2007,
4 right?

5 A. I see that.

6 Q. E involves McKesson-Salt Lake
7 and distribution of 824,000 units of
8 hydrocodone, oxycodone, fentanyl and
9 methadone to the Blackfeet Clinic in
10 Browning, Montana from January 2005 to
11 October 2007.

12 Do you see that?

13 A. I see that.

14 Q. Okay. And then finally, there
15 is, from McKesson-West Sacramento,
16 allegations of theft or significant loss of
17 controlled substances on 28 separate
18 occasions that were not reported timely to
19 the DEA.

20 Do you see that?

21 A. I see that.

22 Q. Okay. And you know that for
23 this covered conduct, there was a fine paid
24 of \$13.25 million by McKesson, right?

25 A. Correct.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 QUESTIONS BY MR. BOGLE:

12 Q. Okay. We'll take a look at a
13 few things related to the LDMP -- you're okay
14 with me calling it LDMP?

15 A. Please.

16 Q. Okay. I think we're talking
17 about the same thing there.

18 All right. So I'm going to
19 hand you what I'm marking as Exhibit 1.1830,
20 which is Exhibit 14 to your deposition, and
21 that is, for those keeping track of these
22 things, MCKMDL00403340.

23 (McKesson-Hilliard Exhibit 14
24 was marked for identification.)

25 --oOo--

1 QUESTIONS BY MR. BOGLE:

2 Q. There's yours, sir, and there's
3 yours.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

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- **227. Methodology**
- **228. Results**
- **229. Discussion**
- **230. Conclusion**
- **231. References**
- **232. Appendix**
- **233. Glossary**
- **234. Acknowledgments**
- **235. Bibliography**
- **236. Index**
- **237. Summary**
- **238. Abstract**
- **239. Introduction**
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- **250. Index**
- **251. Summary**
- **252. Abstract**
- **253. Introduction**
- **254. Background**
- **255. Methodology**
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22 Q. Okay. You were actually
23 involved in auditing the Lifestyle Drug
24 Monitoring Program in 2007, right?

25 A. I don't recall specifically

[illegible]

[illegible]

[illegible]

[illegible]

The image displays a horizontal bar chart consisting of 25 rows. Each row features a small, uniform gray square on the left side. To the right of this square is a larger gray bar. The length and horizontal position of these larger bars vary across the rows. Some bars start at the same left edge as the small squares, while others are indented to the right. The bars are distributed across the width of the chart area, with some extending nearly to the right edge and others being much shorter.

[illegible]

20 you Exhibit 1.1913, also marked as
21 Exhibit 16.

22 (McKesson-Hilliard Exhibit 16
23 was marked for identification.)

24 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

12 MR. LOMBARDO: Excuse me, does
13 this exhibit have a Bates number?

14 MR. BOGLE: MCKMDL00591841.

15 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

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[REDACTED]

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9 QUESTIONS BY MR. BOGLE:

10 Q. Okay. Well, let's take a look
11 at the SOP itself on this issue, then, so we
12 can sew that up. It's 1.1333, Exhibit 17 to
13 your deposition, which is MCKMDL00330211.

14 (McKesson-Hilliard Exhibit 17
15 was marked for identification.)

16 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

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A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing percentages. The bars are gray, and the background is white. The chart is enclosed in a black border.

| Category | Percentage |
|----------|------------|
| 1 | 95% |
| 2 | 85% |
| 3 | 90% |
| 4 | 88% |
| 5 | 92% |
| 6 | 90% |
| 7 | 40% |
| 8 | 75% |
| 9 | 20% |
| 10 | 20% |
| 11 | 20% |
| 12 | 95% |
| 13 | 90% |
| 14 | 98% |
| 15 | 90% |
| 16 | 65% |
| 17 | 85% |
| 18 | 95% |
| 19 | 75% |
| 20 | 95% |



21 QUESTIONS BY MR. BOGLE:

22 Q. Okay. And I'm going to hand
23 you next, then, what I'm marking as
24 Exhibit 18, which is 1.1918, and that's
25 MCKMDL00591858.

1 (McKesson-Hilliard Exhibit 18

2 was marked for identification.)

3 QUESTIONS BY MR. BOGLE:

4 Q. There you go, sir.

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13 QUESTIONS BY MR. BOGLE:

14 Q. All right. I just want to show
15 you one more of these audits, which is
16 Exhibit 1.1917, marked as Exhibit 19 to your
17 deposition, and that's MCKMDL00591251.

18 (McKesson-Hilliard Exhibit 19
19 was marked for identification.)

20 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

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[illegible]

- **Introduction**
- **Background**
- **Objectives**
- **Methods**
- **Results**
- **Conclusion**
- **Discussion**
- **References**
- **Appendix**
- **Table 1**
- **Table 2**
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- **Table 100**

[illegible]

20 QUESTIONS BY MR. BOGLE:

21 Q. All right. Let's take a look
22 at Exhibit 1.2002, which is Exhibit 20 to
23 your deposition.

24 (McKesson-Hilliard Exhibit 20
25 was marked for identification.)

1 QUESTIONS BY MR. BOGLE:

2 Q. All right. And here we've got
3 a series of e-mails and we're going to walk
4 through a couple of portions here with you.
5 This is MCKMDL00622532.

A collection of 20 horizontal bars of varying lengths and positions, some with small squares at their start or end, resembling a barcode or a data visualization.

[illegible]

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[REDACTED]

12 QUESTIONS BY MR. BOGLE:

13 Q. Okay. Let's take a look at
14 what I'm marking as Exhibit 21, which is
15 1.1856, and that's MCKMDL00573535.

16 (McKesson-Hilliard Exhibit 21
17 was marked for identification.)

18 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[illegible]

[illegible]

[REDACTED]

6 Q. Okay. But you're aware that
7 significant additions to McKesson's
8 regulatory team did not occur, in fact, until
9 the 2013-2014 time frame, right?

10 MR. EPPICH: Object to the
11 form.

12 A. There were -- we doubled in
13 size when the regional DRAs came aboard, so
14 that was a major change from that aspect.
15 There were certainly much larger numbers that
16 came onboard as the department developed.

17 QUESTIONS BY MR. BOGLE:

18 Q. Right. But we just looked at
19 this discussion from 2009. So it wasn't --
20 after 2009, it wasn't until late 2013, early
21 2014, that significant additions were made as
22 far as staffing in the regulatory department
23 of McKesson, right?

24 MR. EPPICH: Objection to form;
25 asked and answered.

1 A. I'm not sure exactly on the
2 dates. We doubled in size in the 2009 time
3 frame, and at this point and juncture of 2013
4 and such, I'm no longer working actively in
5 the CSMP program. But there were
6 additional -- significant additional head
7 count that was produced to the department. I
8 just don't know exact dates when that
9 occurred.

10 QUESTIONS BY MR. BOGLE:

11 Q. When you say you doubled in
12 size in around 2009, that's doubling from
13 three people to six people, right?

14 A. Four more were added, so it's
15 from three to seven.

16 Q. Three to seven people, okay.

17 A. Yeah.

18 Q. And that's to cover, again,
19 what is approximately 30 distribution
20 centers, right?

21 A. Correct.

22 Q. Okay. And you're aware of --
23 well, strike that.

■

■

■

■

■ [REDACTED]

■ [REDACTED]

3 MR. EPPICH: Object to the
4 form. Calls for speculation.

5 A. I didn't have any control on
6 the head count in the department. That would
7 be our -- Don Walker's position to decide
8 what type of head counts we needed to cover
9 the area. Again, I wasn't assigned to a
10 region for those processes.

11 QUESTIONS BY MR. BOGLE:

12 Q. Okay. So additional staffing
13 wouldn't have been your call. Is that what
14 you're saying?

15 A. That's correct.

16 Q. We touched on this a little
17 bit, but I want to talk more specifically
18 about it. In 2008, following the settlement
19 we saw with the DEA, the CSMP was
20 implemented, right?

21 A. Correct.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

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A horizontal bar chart with 25 rows of data. Each row starts with a small gray square, followed by a text label, and then a gray horizontal bar representing a percentage. The bars are of varying lengths, indicating different percentages for each category. The chart is set against a white background with a light gray grid.

| Category | Percentage |
|----------|------------|
| 1 | 45% |
| 2 | 80% |
| 3 | 82% |
| 4 | 85% |
| 5 | 78% |
| 6 | 85% |
| 7 | 75% |
| 8 | 70% |
| 9 | 25% |
| 10 | 35% |
| 11 | 35% |
| 12 | 65% |
| 13 | 85% |
| 14 | 75% |
| 15 | 78% |
| 16 | 85% |
| 17 | 88% |
| 18 | 45% |
| 19 | 50% |
| 20 | 75% |
| 21 | 80% |
| 22 | 85% |
| 23 | 75% |
| 24 | 82% |
| 25 | 45% |
| 26 | 35% |
| 27 | 35% |

[REDACTED]

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[REDACTED]

6 QUESTIONS BY MR. BOGLE:

7 Q. Okay. But we looked at the
8 2008 settlement agreement where there were --
9 there was a \$13.25 million fine paid for
10 conduct related to various distribution
11 centers for distribution of opioids.

12 In your view, after that, was
13 there not some reason to change the course of
14 conduct at McKesson as it pertained to
15 controlled substance distribution?

16 MR. EPPICH: Objection to the
17 form; calls for speculation.
18 Foundation.

19 A. McKesson, we worked to develop
20 new and enhanced programs that demonstrates
21 activity that occurred after that agreement.

22 QUESTIONS BY MR. BOGLE:

23 Q. Okay. But with the conduct
24 that we looked at in that settlement
25 agreement, do you agree or not agree that

1 changes needed to be made in the controlled
2 substance monitoring practices at McKesson?

3 MR. EPPICH: Object to form.

4 A. There were changes made.

5 That's how we came to develop the LDMP and
6 then developed the more robust CSMP program.

7 QUESTIONS BY MR. BOGLE:

8 Q. And if those changes are going
9 to be meaningful, then it shouldn't be
10 business as usual for customers, should it?
11 It should be more difficult for customers to
12 get controlled substances, right?

13 MR. EPPICH: Object to the
14 form. Vague.

15 A. You can work collaboratively
16 with your customers and not make it painful
17 for them, so, you know, it's -- business
18 doesn't have to be painful. Changing
19 processes, enhancing programs, working
20 collaborative with customers, is what was
21 needed and what we developed and it could
22 enhance the program.

23 QUESTIONS BY MR. BOGLE:

24 Q. Okay. So then when the CSMP
25 was developed, was it your understanding that

1 the ultimate goal was to make sure that
2 customers stayed happy and kept getting the
3 product that they wanted to get?

4 MR. EPPICH: Object to the
5 form; vague, misstates prior
6 testimony.

7 A. Obviously that wasn't the
8 purpose.

9 QUESTIONS BY MR. BOGLE:

10 Q. Okay. So is it an accurate
11 statement that the goal was to make sure that
12 there was no disruption in the business
13 activities of any McKesson customer?

14 MR. EPPICH: Objection to the
15 form; misstates prior testimony.
16 Calls for speculation.

17 A. As stated before, there were
18 customers that we discontinued doing business
19 with. So in some cases, customers would be
20 unhappy. But that doesn't mean that all
21 customers are going to get discontinued
22 business. They're all going to get reviewed,
23 and again, it doesn't mean it has to disrupt
24 the business between the companies.

25 --oOo--

1 QUESTIONS BY MR. BOGLE:

2 Q. But if it becomes more
3 difficult for customers to get opioid
4 products, isn't that justified if you're
5 facing an epidemic?

6 MR. EPPICH: Objection to the
7 form. Vague. Calls for speculation.

8 A. I don't know what that would
9 affect to the customer. Just because you're
10 doing a review and you're knowing your
11 customer, you're making sure they obtain the
12 amount of product that they need for
13 legitimate purposes. That's not painful for
14 a customer.

15 QUESTIONS BY MR. BOGLE:

16 Q. Okay. So it's your testimony,
17 then, that -- I'm trying to make sure I
18 understand what you're saying here. So the
19 business-as-usual attitude did exist in
20 creation of the CSMP, right?

21 MR. EPPICH: Objection.

22 QUESTIONS BY MR. BOGLE:

23 Q. Am I understanding you
24 correctly?

25 MR. EPPICH: Objection, form.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7 QUESTIONS BY MR. BOGLE:

8 Q. Okay. I'm going to hand you
9 what I'm marking as Exhibit 23, which is
10 1.1804, and that's MCKMDL00543971.

11 (McKesson-Hilliard Exhibit 23
12 was marked for identification.)

13 QUESTIONS BY MR. BOGLE:

14 Q. There you go, sir.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

1 MR. EPPICH: Let's go ahead and
2 go off the record.

3 THE VIDEOGRAPHER: Off the
4 record at 2:34.

5 (Recess taken, 2:34 p.m. to
6 2:50 p.m.)

7 THE VIDEOGRAPHER: Stand by.
8 The time is 2:50. Back on the record,
9 beginning of File 5.

10 QUESTIONS BY MR. BOGLE:

[REDACTED]

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10 Q. Okay. Then if we go back to
11 Exhibit 3, which is the Rannazzisi letter
12 from September 27, 2006, you recall
13 discussing this letter with me earlier today,
14 right?

15 A. Yes, I do.

16 Q. Okay. If we go to the second
17 page of the letter, there is a paragraph
18 about three-quarters of the way down that
19 says, "Thus, in addition to."

20 Do you see that?

21 A. Yes, I do.

22 Q. It says: Thus, in addition to
23 reporting all suspicious orders, a
24 distributor has a statutory responsibility to
25 exercise due diligence to avoid filling

1 suspicious orders that might be diverted into
2 other than legitimate medical, scientific,
3 and industrial channels.

4 Do you see that?

5 A. I see that.

6 Q. Okay. And the next paragraph
7 down that we read before talks about the
8 distributor needing to exercise due care in
9 confirming the legitimacy of orders prior to
10 filling.

11 Do you see that reference in
12 the last sentence?

13 A. Yes, I see that now.

14 Q. Okay. So, again, this letter
15 from September 27, 2006, you would agree with
16 me makes clear that the expectation is that
17 McKesson will be reporting suspicious orders
18 and not filling them if it deems them
19 suspicious, right?

20 MR. EPPICH: Object to the
21 form. The document speaks for itself.

22 A. That's what's stated on here.

23 QUESTIONS BY MR. BOGLE:

24 Q. Okay. And so the idea, then,
25 is not to report suspicious sales, because

1 you're not supposed to make the sale if the
2 order is suspicious, right?

3 MR. EPPICH: Object to the
4 form. Calls for speculation.

5 A. It states "suspicious orders."

6 QUESTIONS BY MR. BOGLE:

7 Q. And not "suspicious sales,"
8 right?

9 MR. EPPICH: Object to the
10 form; calls for speculation.

11 A. I don't recall seeing "sales"
12 listed here.

13 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

20 Q. All right. I'm going to hand
21 you now what I'm marking as Exhibit 24, which
22 is 1.1937, and that's MCKMDL00623568.

23 (McKesson-Hilliard Exhibit 24
24 was marked for identification.)

25 --oOo--

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| 3 | 0 | 35 |
| 4 | 0 | 45 |
| 5 | 15 | 85 |
| 6 | 0 | 70 |
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| 8 | 0 | 75 |
| 9 | 30 | 50 |
| 10 | 50 | 75 |
| 11 | 15 | 25 |
| 12 | 0 | 45 |
| 13 | 15 | 75 |
| 14 | 30 | 50 |
| 15 | 50 | 75 |
| 16 | 15 | 65 |
| 17 | 15 | 80 |
| 18 | 0 | 95 |
| 19 | 0 | 60 |
| 20 | 0 | 45 |
| 21 | 15 | 80 |
| 22 | 0 | 85 |
| 23 | 0 | 70 |
| 24 | 0 | 75 |
| 25 | 0 | 75 |
| 26 | 0 | 65 |
| 27 | 30 | 80 |

[illegible]

A horizontal bar chart with 25 rows. Each row consists of a small square marker on the left and a horizontal bar of varying length. The bars are gray, and the background is white. The bars represent percentages for different categories, with some categories having multiple sub-items represented by separate bars.

| Category | Percentage |
|----------|------------|
| 1 | 85% |
| 2 | 90% |
| 3 | 75% |
| 4 | 80% |
| 5 | 95% |
| 6 | 70% |
| 7 | 45% |
| 8 | 55% |
| 9 | 85% |
| 10 | 80% |
| 11 | 35% |
| 12 | 15% |
| 13 | 55% |
| 14 | 85% |
| 15 | 80% |
| 16 | 45% |
| 17 | 55% |
| 18 | 15% |
| 19 | 80% |
| 20 | 85% |
| 21 | 85% |
| 22 | 45% |
| 23 | 55% |
| 24 | 15% |
| 25 | 55% |

[illegible]

[REDACTED]

20 QUESTIONS BY MR. BOGLE:

21 Q. Okay. All right. Let me hand
22 you what I'm marking as Exhibit 25. It's
23 1.1443. It's also MCKMDL00409453.
24 (McKesson-Hilliard Exhibit 25
25 was marked for identification.)

1 QUESTIONS BY MR. BOGLE:

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

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■ ■ [REDACTED]

■ [REDACTED] ■

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[illegible]

[illegible]

- **Development of the immune system**
- **Immune system components**
- **Antibodies**
- **Antigen presentation**
- **Cell-mediated immunity**
- **Humoral immunity**
- **Memory cells**
- **Immunological tolerance**
- **Autoimmunity**
- **Immunodeficiency**
- **Vaccines**
- **Immunotherapy**
- **Immunosuppression**
- **Immunomodulation**
- **Immunosenescence**
- **Immunoparasitology**
- **Immunogenetics**
- **Immunopharmacology**
- **Immunology in clinical practice**
- **Immunology in research**
- **Immunology in education**
- **Immunology in industry**
- **Immunology in agriculture**
- **Immunology in environmental health**
- **Immunology in public health**
- **Immunology in global health**
- **Immunology in biotechnology**
- **Immunology in nanotechnology**
- **Immunology in space exploration**
- **Immunology in the future**

[illegible]

[illegible]

The diagram consists of a vertical list of 20 items. Each item is represented by a small square icon to its left and a horizontal bar of varying length and position to its right. The bars are arranged in a way that suggests a sequence or hierarchy, with some items having bars that span the width of the diagram and others having bars that are more localized.

20 QUESTIONS BY MR. BOGLE:

21 Q. Okay. I'm going to hand you
22 now what I'm marking as Exhibit 26, which is
23 1.1432, and that's MCKMDL00409048.

24 (McKesson-Hilliard Exhibit 26
25 was marked for identification.)

1 QUESTIONS BY MR. BOGLE:

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental design and the procedures followed during the study.

3. The third part of the document presents the results of the study, which show a significant correlation between the variables being investigated. The data indicates that the proposed method is effective in achieving the desired outcomes.

4. The fourth part of the document discusses the implications of the findings and provides recommendations for future research. It suggests that further studies should be conducted to validate the results and explore the underlying mechanisms.

5. The fifth part of the document concludes the study by summarizing the key findings and reiterating the importance of the research. It highlights the contributions of the study to the field and expresses confidence in the results.

The image displays a series of 20 horizontal bars, each representing a different data point or category. The bars are arranged vertically, with some starting at the left edge and others indented. They vary in length, with some spanning the entire width of the image and others being significantly shorter. The bars are rendered in a light gray color with a subtle gradient, giving them a three-dimensional appearance. The overall layout is clean and minimalist, focusing on the relative lengths and positions of the bars.

21 QUESTIONS BY MR. BOGLE:

22 Q. Okay. I'm just asking if you
23 know one was entered.

24 A. Yes, I know that one was
25 entered.

1 Q. Okay. Where there was a
2 \$150 million fine assessed?

3 MR. EPPICH: Objection; calls
4 for speculation.

5 A. That was my understanding.

6 QUESTIONS BY MR. BOGLE:

7 Q. Okay. And do you also
8 understand that as a part of that settlement
9 agreement, McKesson accepted responsibility
10 for failing to report suspicious orders?

11 MR. EPPICH: Objection to the
12 form; calls for speculation.

13 A. No, I'm not aware of that. I
14 don't think I was with McKesson when that was
15 finalized.

16 QUESTIONS BY MR. BOGLE:

[REDACTED]

[illegible]

19 QUESTIONS BY MR. BOGLE:

20 Q. All right. We'll mark for you
21 Exhibit 27, which is 1.88. That's
22 MCKMDL00355350. And what I've handed you,
23 sir, is the Administrative Memorandum
24 Agreement that accompanied the 2017
25 settlement between DOJ and McKesson, okay?

1 A. Yes, I have it.

2 Q. Okay. And I want to just point
3 you to one specific passage here, and it's
4 on .3. Number 2 says "Acceptance of
5 Responsibility."

6 Are you with me there?

7 A. Yes, I am.

8 Q. It says: On or about
9 September 27, 2006, February 7, 2007, and
10 December 27, 2007, DEA's Deputy Assistant
11 Administrator, Office of Diversion Control,
12 sent letters to every entity in the United
13 States that was registered with DEA to
14 manufacture or distribute controlled
15 substances, including McKesson.

16 Now, the September 27, 2006
17 letter, that's one that we've actually
18 reviewed here today, right?

19 A. The Rannazzisi?

20 Q. Yes, sir.

21 MR. EPPICH: Objection to the
22 form; foundation.

23 QUESTIONS BY MR. BOGLE:

24 Q. You recall reading that letter
25 with me?

1 A. The Rannazzisi letter, yes.

2 Q. Okay. And again, that was a
3 letter that you received, right?

4 MR. EPPICH: Objection to the
5 form; foundation.

6 A. I did receive it at some point,
7 yes.

8 QUESTIONS BY MR. BOGLE:

9 Q. Okay. It continues here: The
10 DEA Letters contained, among other things,
11 guidance for the identification and reporting
12 of suspicious orders to DEA as required by
13 21 C.F.R. Section 1301.74(b). McKesson
14 acknowledges that, at various times during
15 the time period from January 1, 2009 up
16 through and including the Effective Date of
17 this Agreement (the "Covered Time Period"),
18 it did not identify or report to DEA certain
19 orders placed by certain pharmacies which
20 should have been detected by McKesson as
21 suspicious based on the guidance contained in
22 the DEA Letters about the requirements set
23 forth in 21 C.F.R. 1301.74(b) and
24 21 U.S.C. Section 842(a)(5).

25 Do you see that?

1 A. I see that.

2 MR. EPPICH: Objection;

3 foundation.

4 QUESTIONS BY MR. BOGLE:

| Response | Percentage |
|--|------------|
| Yes, the U.S. should take action to reduce greenhouse gas emissions | 95% |
| No, the U.S. should not take action to reduce greenhouse gas emissions | 5% |

| Response | Percentage |
|--|------------|
| Yes, the U.S. should take action to reduce greenhouse gas emissions | 85% |
| No, the U.S. should not take action to reduce greenhouse gas emissions | 15% |

| Response | Percentage |
|----------|------------|
| Yes | 75% |
| No | 25% |

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. While you were with
18 McKesson, did you have a sense -- I mean, you
19 were there for nearly 20 years. Did you have
20 a sense and feeling that McKesson would
21 accept responsibility for things that it
22 didn't do?

23 MR. EPPICH: Object to the
24 form; calls for speculation.

25 A. I wasn't part of the agreement

1 and I'm not familiar with this document, so I
2 don't know.

3 QUESTIONS BY MR. BOGLE:

4 Q. I'm not specifically asking you
5 about the document right now. I'm saying,
6 during your 20 years spent at McKesson, do
7 you have a belief that McKesson would accept
8 responsibility for things that it didn't do?

9 MR. EPPICH: Object to the
10 form; calls for speculation.

11 A. I don't know.

12 QUESTIONS BY MR. BOGLE:

13 Q. Okay. And can you think of any
14 other instance in the 20 years you were at
15 McKesson where the company paid anything
16 approaching a \$150 million fine for something
17 it didn't do?

18 MR. EPPICH: Object to the
19 form; calls for speculation.

20 A. I don't know.

21 QUESTIONS BY MR. BOGLE:

22 Q. Can you think of any off the
23 top of your head?

24 MR. EPPICH: Same objections.

25 A. I'm not aware of any.

1 MR. BOGLE: Okay. No further
2 questions for you, sir.

3 THE WITNESS: Thank you.

4 MR. EPPICH: Let's go ahead and
5 take a break and go off the record.

6 THE VIDEOGRAPHER: Off the
7 record at 3:25.

8 (Recess taken, 3:25 p.m. to
9 3:46 p.m.)

10 THE VIDEOGRAPHER: All right,
11 stand by. The time is 3:46. Back on
12 the record.

13 EXAMINATION

14 QUESTIONS BY MR. EPPICH:

15 Q. Good afternoon, Mr. Hilliard.
16 My name is Chris Eppich, and I'm just going
17 to ask a few questions of you this afternoon.

18 A. Okay.

19 Q. I know it's been a long day so
20 I'll keep it pretty short.

21 You testified earlier today
22 that you joined McKesson in 1997. Is that
23 right?

24 A. That's correct.

25 Q. And can you briefly describe

1 for us your duties as director of regulatory
2 affairs from 1997 to, say, 2006?

3 A. Well, from '97 to
4 approximately '98, the title was manager of
5 regulatory affairs. Still carried the same
6 job functions when I went to director of
7 regulatory affairs.

8 I had DEA oversight in regards
9 to compliance with DEA's Section 55, which
10 was the operating procedures for all things
11 DEA, and so that also included the suspicious
12 order monitoring program within it as well,
13 which was based on the previous working group
14 from the Suspicious Order Task Force that
15 McKesson was involved with prior to my
16 arrival. So that product, that result of
17 that meeting was developed into the
18 Section 55.

19 So I worked with our DC
20 managers to ensure that they were in
21 compliance with the Section 55 requirements,
22 including the suspicious order aspect of it.
23 I audited them as well and worked with them
24 with any issues that they may bring to my
25 attention, and I also worked on the ARCOS

1 part of it and training the associates there
2 at the facilities in theft and loss reports
3 and sometimes investigations.

Also, I mentioned the audits, I conducted the DEA audits as well as other regulatory audits for the operations. In addition to the DEA responsibilities, I also had responsibilities under the waste management or environmental aspect of it for EPA, also for hazardous materials for DOT and FAA transportation aspects of it; for registrations, including the DEA registrations for our facilities, and our state licensures and state-controlled substance licensures for our facilities.

16 I also worked with FDA
17 compliance for our facilities as well, and
18 that carried up to about 2006.

| Age Group | Male (%) | Female (%) |
|-----------|----------|------------|
| 18-24 | 40 | 60 |
| 25-34 | 50 | 50 |
| 35-44 | 30 | 70 |
| 45-54 | 60 | 40 |
| 55-64 | 40 | 60 |

[illegible]

[illegible]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

15 Q. Now, I interrupted you when you
16 were talking about your responsibilities as
17 the director of regulatory affairs. What
18 were your responsibilities between the years
19 2006 to 2008?

20 A. I still had the same
21 responsibilities, with additional
22 responsibilities as it related to working
23 with our DC managers on identified customers
24 by the DEA and then starting to develop the
25 LDMP processes and crafting the SOP, which

1 then developed into the CSMP.

2 Q. So you worked on the
3 development of the LDMP and then the
4 development of the CSMP. Is that right?

5 A. Correct.

6 Q. Now, that -- and do you recall
7 when the CSMP was released?

8 A. I believe it was 2008.

9 Q. Okay. And after 2008, after
10 the release of the CSMP, what were your
11 responsibilities as a director of regulatory
12 affairs at McKesson?

13 A. I still helped to work with the
14 SOPs, but the regional directors came onboard
15 and so they managed the correlation with the
16 DCs, their respective DCs in those regions as
17 it relates to the CSMP processes and
18 procedures, and I still continued with --
19 again, with the normal DEA audits and then
20 also continued with my other responsibilities
21 under FDA and HAZMAT and EPA.

22 Q. Now, do you recall -- do you
23 recall who your supervisors were? Let's go
24 ahead and take it back in time. Let's take
25 it from about 1997 to the 2006 time period.

1 Do you recall who your supervisors were?

2 A. So when I joined in '97, Dan
3 White was my boss and he was a VP of
4 regulatory. And then after Dan White, I
5 believe it was Don Walker. Again, I don't
6 remember the exact dates. I believe it was
7 Don Walker, and then to Ron Bone. I know I
8 was reporting to Ron Bone in the 2005-2006
9 time frame.

10 Ron left and then I was
11 reporting to Bruce and -- Bruce Russell and
12 Don Walker; and then once Bruce retired, it
13 was directly to Don Walker. And then finally
14 I reported to Krista Peck.

15 Q. You testified earlier today
16 that you were familiar with the Controlled
17 Substances Act.

18 Do you remember that testimony?

19 A. Yes, I do.

20 Q. Now, during -- and you
21 testified that you were in the regulatory
22 affairs department at McKesson from 1997 all
23 the way to 2016, correct?

24 A. That's correct.

25 Q. Now, during your time at

1 McKesson, are you aware of any changes to the
2 Controlled Substances Act?

3 A. No, I'm not.

4 Q. The CSA didn't change at all
5 during your tenure at McKesson?

6 MR. BOGLE: Object to form.

7 A. That's correct.

8 QUESTIONS BY MR. EPPICH:

9 Q. Now, have directives from the
10 DEA changed over that period?

11 A. Yes, they have.

12 Q. Can you provide us any examples
13 of how DEA directives have changed while you
14 were at McKesson?

15 MR. BOGLE: Object to form.

[illegible]

A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing percentages. The bars are gray, and the background is white. The chart is enclosed in a thin black border.

| Category | Percentage |
|----------|------------|
| 1 | 75% |
| 2 | 70% |
| 3 | 80% |
| 4 | 75% |
| 5 | 60% |
| 6 | 75% |
| 7 | 85% |
| 8 | 80% |
| 9 | 80% |
| 10 | 85% |
| 11 | 85% |
| 12 | 80% |
| 13 | 85% |
| 14 | 80% |
| 15 | 85% |
| 16 | 80% |
| 17 | 85% |
| 18 | 85% |
| 19 | 85% |
| 20 | 80% |

A horizontal bar chart with 20 rows. Each row consists of a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing different percentages for each category. The bars are solid black.

| Category | Percentage |
|----------|------------|
| 1 | 25% |
| 2 | 85% |
| 3 | 20% |
| 4 | 40% |
| 5 | 40% |
| 6 | 15% |
| 7 | 50% |
| 8 | 5% |
| 9 | 60% |
| 10 | 85% |
| 11 | 75% |
| 12 | 20% |
| 13 | 40% |
| 14 | 40% |
| 15 | 15% |
| 16 | 60% |
| 17 | 80% |
| 18 | 85% |
| 19 | 10% |
| 20 | 85% |
| 21 | 75% |
| 22 | 80% |
| 23 | 85% |
| 24 | 55% |
| 25 | 40% |
| 26 | 75% |
| 27 | 65% |
| 28 | 85% |

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

7 QUESTIONS BY MR. EPPICH:

8 Q. Mr. Hilliard, are you familiar
9 with the ARCOS reporting system?

10 A. Yes, I am.

11 Q. What is the ARCOS reporting
12 system?

13 A. It's a reporting system that's
14 put in place way past when I started in the
15 industry, that the DEA runs. It's run out of
16 headquarters and it's a reporting system for
17 manufacturers and distributors.

18 So manufacturers and
19 distributors have to submit essentially all
20 the raw data for their transactions for
21 Schedule IIs and Schedule III narcotics, and
22 this included all the sales receipts,
23 returns, theft/loss, no activity, if you had
24 no activity for a registrant during the
25 month.

1 So it had monthly reporting
2 requirements for every registrant that's a
3 manufacturer or distributor.

4 Q. So McKesson has to submit its
5 sales data to the DEA as a part of this ARCOS
6 reporting requirement? Is that correct?

7 MR. BOGLE: Object. Object to
8 form.

9 A. That's correct.

10 QUESTIONS BY MR. EPPICH:

11 Q. And do other distributors have
12 to similarly report their sales data for
13 controlled substances to this ARCOS reporting
14 system?

15 MR. BOGLE: Object to form.

16 A. That's correct.

17 QUESTIONS BY MR. EPPICH:

18 Q. Does McKesson have access to
19 other distributors' data that's reported to
20 ARCOS?

21 A. No, they don't. We asked for
22 it.

23 Q. Who has access to the ARCOS
24 reporting data?

25 A. Only the DEA.

1 Q. Did McKesson have the ability
2 to know -- let me strike that.

[REDACTED]

17 QUESTIONS BY MR. EPPICH:

18 Q. You may recall a few moments
19 ago Mr. Bogle asked you some questions about
20 Exhibit 27. Do you have Exhibit 27 in front
21 of you?

22 A. Yes, I do.

23 Q. Now, Exhibit 27 is titled the
24 Administrative Memorandum of Agreement.

25 Do you see that?

1 A. I see it.

2 Q. Mr. Bogle had you turn to
3 page 3 of this document, which is Bates
4 ending 355352.

5 A. I see that.

6 Q. Do you remember that, sir?

7 A. Yes, I do.

8 Q. And he read Section 2,
9 Acceptance of Responsibility, to you.

10 Do you remember that testimony?

11 A. Yes, I do.

12 Q. Now, about halfway down this
13 paragraph, the paragraph reads: McKesson
14 acknowledges that, at various times during
15 the period from January 1, 2009, up through
16 and including the Effective Date of this
17 Agreement, it did not identify or report to
18 DEA certain orders placed by certain
19 pharmacies which should have been detected by
20 McKesson as suspicious based on the guidance
21 contained in the DEA Letters and -- about the
22 requirements set forth in 21 C.F.R.
23 1307.174(b) and 21 U.S.C. 842(a)(5).

24 Do you see that, sir?

25 A. Yes, I see it.

1 Q. Now, before your deposition
2 today, had you ever seen Exhibit 27?

3 A. No, I haven't.

4 Q. And while you were at McKesson,
5 did anyone ask you to investigate any of the
6 pharmacies' alleged activity that's described
7 in this document for this period January 1,
8 2009, to the date of this agreement?

9 A. No.

10 Q. Do you have any knowledge about
11 the allegations described in Exhibit 27?

12 A. Not that I recall.

13 Q. If you could turn to
14 Exhibit 26. Mr. Bogle introduced Exhibit 26
15 to you.

16 Do you remember that?

17 A. Yes, I do.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6 Q. If we could turn to Exhibit 25.

7 Do you have that one in front of you?

8 A. Yes, I do.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

22 Q. Thank you.

23 We mentioned -- you discussed

24 earlier, testified earlier with Mr. Bogle

25 about the LDMP and the CSMP program.

1 Do you remember that testimony?

2 A. Yes, I do.

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17 QUESTIONS BY MR. EPPICH:

18 Q. You talked briefly earlier

19 about the evolution of the CSMP.

20 Do you remember that testimony?

21 A. I believe so.

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[REDACTED]

17 Q. Thank you, Mr. Hilliard.

18 Mr. Hilliard, you worked at
19 McKesson for over 20 years. How would you
20 describe McKesson's culture in the area of
21 compliance and regulatory affairs?

22 A. I enjoyed working at McKesson
23 and working with my colleagues. I know that
24 myself and my colleagues always worked with
25 the utmost integrity and always believed in

1 what we were doing and strived to do the
2 right thing, and as they brought new folks in
3 and I worked with some of them, they too were
4 on the same page and had the same goals that
5 we had.

6 Q. Thank you, Mr. Hilliard.

7 MR. EPPICH: I have no further
8 questions.

9 MR. BOGLE: I've just got a few
10 follow-ups. It's your call,
11 Mr. Hilliard. If you're okay looking
12 straight ahead, I've probably got like
13 six or seven questions for you.

14 THE WITNESS: That's fine.

15 MR. BOGLE: If you want me to
16 move back over there, I really don't
17 care.

18 THE WITNESS: That's fine.

19 MR. BOGLE: You good? Okay.
20 Just -- Chris is going to tell you to
21 look straight ahead. Don't look at
22 me, which is probably easy for you to
23 do.

24 All right. I'm ready.

25 --oOo--

1 FURTHER EXAMINATION

2 QUESTIONS BY MR. BOGLE:

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for transparency and accountability, particularly in the context of public administration and financial management.

2. The second part of the document outlines the various methods and tools used to collect and analyze data. This includes the use of surveys, interviews, and statistical analysis to gather information and identify trends. The document also discusses the importance of ensuring the reliability and validity of the data collected.

3. The third part of the document focuses on the implementation of the findings and recommendations. It provides a detailed plan of action, including specific steps to be taken, responsible parties, and a timeline for completion. This section is crucial for ensuring that the research findings are translated into practical actions and policies.

4. The fourth part of the document discusses the challenges and limitations of the research. It acknowledges that there are several factors that may have influenced the results, such as the sample size, the methodology used, and the potential for bias. The document also discusses the limitations of the data and the need for further research to address these issues.

5. The fifth part of the document provides a conclusion and summarizes the main findings of the study. It reiterates the importance of the research and the need for continued efforts to improve the quality of public administration and financial management. The document also provides a final recommendation for further research and action.

6. The sixth part of the document is a list of references, which includes a comprehensive list of all the sources cited in the document. This list is organized alphabetically and includes the names of the authors, the titles of the works, and the publication information.

7. The seventh part of the document is an appendix, which contains additional information that is not included in the main body of the document. This may include raw data, detailed calculations, or other supporting materials that are relevant to the study.

8. The eighth part of the document is a glossary, which defines the key terms and concepts used throughout the document. This is helpful for readers who may not be familiar with the terminology used in the study.

9. The ninth part of the document is a list of figures and tables, which provides a summary of the visual elements included in the document. This list includes the titles of the figures and tables, as well as a brief description of their content.

10. The tenth part of the document is a list of footnotes, which provides additional information and references that are not included in the main body of the document. This list is organized numerically and includes the names of the authors, the titles of the works, and the publication information.

■ [REDACTED]

2 QUESTIONS BY MR. BOGLE:

3 Q. Yeah. So I'm not talking about
4 the CSA. I'm talking about, again, what a
5 good company would do.

6 Do you think it would be a bad
7 thing for McKesson, in an attempt to be a
8 good corporate citizen, to at all times know
9 what its customers were doing with the
10 opioids it was distributing to them?

11 MR. EPPICH: Object to the
12 form; asked and answered.

13 A. We had processes in place to
14 comply with the CSA, and I can't specifically
15 speak to everybody in McKesson.

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. And I'm not -- okay.
18 Let me ask it to you this way: Do you think,
19 as Gary Hilliard, director of regulatory
20 affairs for nearly 20 years at McKesson,
21 that -- is your personal belief that it would
22 be a bad thing for McKesson to know what its
23 customers were doing with opioids McKesson
24 was distributing to them? What is your
25 personal opinion?

1 MR. EPPICH: Object to the
2 form; asked and answered.

3 A. As I say, we believed that we
4 were doing what was required, and we had
5 means to investigate and look into our
6 customers and their business activities.

7 QUESTIONS BY MR. BOGLE:

8 Q. Would it be a bad thing to know
9 what your customer is doing with the opioids
10 you're giving them? That's my question.

11 MR. EPPICH: Objection, form.

12 Asked and answered.

13 A. Our customers were registered
14 with the DEA. We serviced our customers that
15 had DEA registrations and were receiving
16 prescriptions from DEA-registered physicians.
17 We believed we were complying with the CSA
18 requirements.

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. So as long as they were
21 registered with the DEA, that was all you
22 needed to know about your customer, right?

23 MR. EPPICH: Objection.

24 Misstates the prior testimony. Form.

25 A. Again, we were doing what we

1 believed was correct under the CSA.

2 QUESTIONS BY MR. BOGLE:

3 Q. Which was if they had a
4 registration, they were good to go, right?

5 MR. EPPICH: Objection to form;
6 asked and answered.

A horizontal bar chart consisting of 20 rows. Each row features a small gray square on the left, followed by a gap, then another small gray square, and finally a long gray bar. The bars are of varying lengths and are staggered horizontally across the rows, creating a rhythmic, abstract pattern.

[illegible]

19 MR. BOGLE: Okay. No further
20 questions.

21 MR. EPPICH: Thank you.

22 Before we get off the record,
23 let me designate the transcript as
24 highly confidential, and we'll read
25 and sign.

1 THE REPORTER: Thank you, sir.

2 MR. EPPICH: Thank you.

3 THE VIDEOGRAPHER: Off the
4 record at 4:20.

5 (Deposition recessed at
6 4:20 p.m.)

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CERTIFICATE

I, SUSAN PERRY MILLER, Registered
Diplomate Reporter, Certified Realtime
Reporter, Certified Court Reporter and Notary
Public, do hereby certify that prior to the
commencement of the examination, GARY
HILLIARD was duly sworn by me to testify to
the truth, the whole truth and nothing but
the truth;

That pursuant to Rule 30 of the
Federal Rules of Civil Procedure, signature
of the witness was reserved by the witness or
other party before the conclusion of the
deposition;

That the foregoing is a verbatim
transcript of the testimony as taken
stenographically by and before me at the
time, place and on the date hereinbefore set
forth, to the best of my ability.

I DO FURTHER CERTIFY that I am
neither a relative nor employee nor attorney
nor counsel of any of the parties to this
action, and that I am neither a relative nor
employee of such attorney or counsel, and
that I am not financially interested in the
action.

Susan Perry Miller
CSR-TX, CCR-LA, CSR-CA-13648
Registered Diplomate Reporter
Certified Realtime Reporter
Certified Realtime Captioner
NCRA Realtime Systems Administrator
Notary Public, State of Texas
My Commission Expires 03/30/2020

Dated: 14th of January, 2019

1 ACKNOWLEDGMENT OF DEPONENT

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4

I, GARY HILLIARD, do hereby
certify that I have read the foregoing pages
and that the same is a correct transcription
of the answers given by me to the questions
therein propounded, except for the
corrections or changes in form or substance,
if any, noted in the attached
Errata Sheet.

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GARY HILLIARD

DATE

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18 Subscribed and sworn
to before me this

19 ____ day of _____, 20____.

20 My commission expires:_____

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22 Notary Public

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ERRATA

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